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Articles

- THE NATIONAL LABOR RELATIONS ACT
MUST BE REVISED TO PRESERVE
INDUSTRIAL DEMOCRACY *Charles B. Craver* 397

Professor Craver begins by clarifying the purpose of the National Labor Relations Act (NLRA): Congress enacted the NLRA to equalize the bargaining power between employees and employers and to preserve industrial democracy. He then overviews the NLRA's protections and explores its enforcement history. After noting that the NLRA has provided significant rights for millions of American workers, Professor Craver demonstrates that recent Labor Board and court decisions have contravened the purpose of the NLRA and have eroded many of its protections. He argues that Congress should revise the NLRA in order to revitalize labor organizations and encourage industrial democracy.

- EVALUATING INDEPENDENT TORTS BASED
UPON "INTENTIONAL" OR "NEG-
LIGENT" INFLICTION OF EMOTIONAL
DISTRESS: HOW CAN WE KEEP THE
BABY FROM DISSOLVING IN THE
BATH WATER?..... *David Crump* 439

Increasingly, and in a surprising variety of circumstances, plaintiffs have begun to assert claims for "negligent" infliction of emotional distress. In this Article, Professor Crump demonstrates that recognition of a general-purpose negligent infliction claim would make superfluous the established cause of action for intentional infliction of emotional distress and would destroy the limits that the law has developed to confine it. He concludes that negligence should not suffice for recovery of pure emotional distress damages unless the claimant can demonstrate a traditional basis for the establishment of a duty, in the form of a contractual relationship, an independent tort, or a properly limited bystander claim.

Symposium *Environmental Criminal Law*

The following Articles are derived from papers and materials presented to the annual Arizona State Bar Convention conducted at the Westin La Paloma, Tucson, Arizona, in June 1992. The Authors of these Articles verbally presented their findings and research to the Environmental Criminal Law Seminar, and have graciously allowed them to be reprinted the *Arizona Law Review*. It is hoped that this Symposium will substantially contribute to the practice of environmental law in Arizona.

RESPONDING TO A GOVERNMENT

ENVIRONMENTAL INVESTIGATION:

- SHAPING THE DEFENSE*Francis J. Burke, Jr.,* 509
Karen A. Potts, Leigh Lani Brown,
Robin L. De Respino & Michael R. Hall

This Article discusses the substantive and tactical considerations in responding to a government environmental investigation: determining what violations may have occurred and whether the company or its officers may face criminal liability, conducting an internal investigation, properly reporting the event or amending filings and permits, forming a joint defense team to protect privileged information, and funding the defense through indemnification and insurance.

THE PROSECUTION OF CORPORATIONS AND

CORPORATE OFFICERS FOR ENVIRONMENTAL CRIMES: LIMITING

ONE'S EXPOSURE FOR ENVIRON-

- MENTAL CRIMINAL LIABILITY*Kenneth A. Hodson,* 553
Sarah N. McGiffert & Marianne T. Bayardi

This Article describes the circumstances under which corporations and their officers and agents can be held liable for environmental crimes, including the *mens rea* requirements for various offenses. It discusses the statutes and case law imposing criminal liability for environmental offenses, and illustrates the effect of the new Federal Sentencing Guidelines on corporations and corporate agents convicted of environmental crimes. The Article concludes by providing a practical checklist for limiting the corporation's exposure to environmental criminal liability.

SURVEY OF FEDERAL AND STATE ENVIRON-

- MENTAL CRIME LEGISLATION*Edward F. Novak &* 571
Charles W. Steese

This Article surveys the development of corporate officer and employee liability for criminal violations of environmental laws. It then examines the substantive provisions of various state and federal environmental legislation and explores the possible penalties for violations using the Federal Sentencing Guidelines as a reference. The Article concludes by making several general recommendations for corporations to reduce the possibility of environmental criminal liability.

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