

BOOK REVIEWS

ARBITRATION IN ACTION. By Frances Kellor. Harper & Brothers, New York and London, 1941. Pp. x, 412. Price: \$3.50.

Disputes between one nation and another or between one individual and another or between an individual and a group of individuals have occurred from time immemorial, are occurring at present, and unless the fundamental basis of human nature changes will likely continue to occur so long as man inhabits the face of the earth. Arbitration, in one form or another, has been used as one of a number of methods to settle such disputes.

Much has been written from an historical approach concerning arbitration but little has been done in the past to set forth, under one cover, the principles and standards of law and practice of arbitration and a method of proceeding under them for the benefit of those who desire to use this extra judicial procedure for the settlement of their disputes. *Arbitration in Action* does just that; in short, it is what its sub-title implies—a code for civil, commercial, and industrial arbitrations.

The book is written primarily as an aid to those engaged in industry and commerce and makes no attempt to deal with the principles or practices concerned with political arbitration, i. e., the settlement of disputes between one nation and another. Its scope encompasses the field of commercial arbitration, concerned with the settlement of disputes arising out of commercial contracts; industrial arbitration, concerned with the settlement of disputes arising out of labor agreements or relations; and civil arbitration, concerned with the settlement of disputes arising out of social or civil relations or claims which arise out of accidents.

Arbitration in Action also includes a chapter on the Settlement of Inter-American Commercial Disputes. Inter-American commercial activities form a vitally important link in inter-American defense. Acceleration of settlement of disputes arising from such activities is necessary and it is important that these disputes be settled expeditiously and as fairly as possible. To this end Miss Kellor has set forth the rules of procedure and practice established for the Inter-American Commercial Arbitration Commission by the Pan-American Union.

A chapter is also devoted to the Motion Picture Arbitration System established under a federal consent decree which named the American Arbitration Association to administer it. The system was the result of a suit brought by the United States against eight of the largest motion picture producers in the country under the Sherman Anti-trust Law. Its purpose was to provide a set of standards of trade practices and to require the producers, who were parties to the decree, to arbitrate controversies which alleged violation of these trade practices. This form of arbitration system establishes an entirely new phase of arbitration philosophy and may be said to mark a milestone on the path of progress in the field.

The book also contains an excellent series of annexes, including a summary of state and federal statutes governing arbitration, ably prepared and contributed by Professor Wesley A. Sturges of Yale University; text of the United States Arbitration Act; text of the New York Arbitration Law; rules of procedure for commercial arbitration tribunals; rules of procedure for Inter-American Tribunals; rules of arbitration for Accident Claims Tribunal of New York City; rules for Motion Picture Arbitration

System; and standard arbitration clauses suggested for inclusion in various types of commercial contracts.

The arbitration movement in modern times owes a deep debt of gratitude to the American Arbitration Association for the splendid services that it has rendered to businessman, labor, and the public in the promotion, conduct, and development of the principles and practices of arbitration, not only in the United States but throughout the world. Miss Kellor, as one of the founders of that Association, has given her entire time and ceaseless effort to the work of the Association and from the experiences of that Association in the arbitration of over twenty-five thousand commercial, industrial, and civil disputes has drawn the material for this book.

In a nation such as the United States, where every sinew is being strained to the utmost to speed production and prevent delays, the need for a speedy, satisfactory, and final determination of inevitable disputes is imperative. The use of arbitration to meet this need is increasing by leaps and bounds. However, the finger of caution must be raised to those who are unacquainted with its principles and practices lest they blunder into mistakes, costly from the standpoint of delay and expense. Miss Kellor's book, by describing the proper technique, does much to avoid these pitfalls. The arbitration movement owes a deep debt of gratitude to Miss Kellor for her excellent work, *Arbitration in Action*.

John R. Abersold.†

ACCIDENTAL INJURIES. By Henry H. Kessler, M. D. Lea & Febiger, Philadelphia, 1941. Pp. 803. Price: \$10.00.

The first edition of "Accidental Injuries", published in 1931, evoked favorable notice from the medical and legal professions as a work of practical value to both. In the second edition, the text has been revised, enlarged and rearranged.

As Medical Advisor to the New Jersey Workman's Compensation Board and as Medical Director of the New Jersey Rehabilitation Bureau, the author's wide experience has covered more than 100,000 cases, and has enabled him to portray and discuss with more than passing authority the medical aspects of accidental injuries, and, what is of significant value to the attorney, their blending into the legal phases of workmen's compensation law and practice.

In the words of the author, his main purpose is "the elaboration of a technique and method of evaluation" of the extent of impairment of industrial capacity caused by industrial accident, one of the most difficult problems facing not only the medical practitioner, but the lawyer and compensation tribunal as well. For in any effort to attain certainty in the fixing of the extent of disability, the factors involved are so many and variable, that absolute accuracy is impossible. Nevertheless, Dr. Kessler has attempted to point the way to a more accurate evaluation of the "degree of disability" and this edition, like the first, is a real contribution to that end.

The plan of the work consists of a discussion of the anatomical structure of the body and its physiology, followed by a more detailed study of particular parts of the body. The various traumatic injuries usually affecting these parts are then discussed in detail, and estimates of the degrees of disabilities are offered. In cases, all too frequent, where no reasonably accurate evaluation of the degree of disability can be made, owing to the variable factors of age, sex, prior condition of health, nervous and mental

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reactions, minimal and maximal limits are offered, with references to the allowances made by the bureaus of various states and foreign countries. These references furnish an interesting study in comparative law.

Special reference must be made to the excellent treatment and discussion of the subject of accident neuroses. The lawyer who practices compensation law will find this chapter of great value in dealing both with malingering clients and with those who present true cases of accident neurosis.

The author has also dealt at length with occupational diseases, a subject of rapidly increasing importance, in view of the extension of compensation law to this field of disability. The law thereon is relatively new and in process of development and formation, especially in contrast with compensation for traumatic disability. This subject, while not within the author's primary specialty of orthopædics, is very well presented and includes a comprehensive list of references, covering general and specific types of industrial diseases.

Each chapter has appended a list of references, making it easy to further pursue any phase of the particular subject dealt with in the chapter.

As in most medical books, a large number of photographs of injured persons and parts of their bodies appear, assisting in a better understanding of the nature of the disability. However, it would have been kinder to present these individuals and their disabilities anonymously, by blanking out their facial features, as is often done in medical books.

Another point of criticism is the fact that the reference to legal authorities is not in keeping with the high quality of the medical aspects of the work. Generally, these references are too sketchy to be of any value to the lawyer and throw little light on the legal principles involved or their relation to the medical aspects of the case. In this respect, it must be remembered that the work is primarily medical, rather than medico-legal or legal.

Although more than 800 pages in length, the work is not unduly long, considering the breadth of the subject covered. Actually, it is written with conciseness, is comprehensive and well planned, and will demonstrate, as did its predecessor, its value and practicability as an aid to the legal profession in the socially important field of compensation law.

Maurice Freedman.†

BOOK NOTE

SUCCESS IN COURT. By Francis L. Wellman. The Macmillan Company, New York, 1941. Pp. xviii, 404. Price: \$3.50.

Mr. Wellman is already well known in the field of legal literature as author of four books dealing mainly with entertaining and instructive incidents in the life of a lawyer. He has now produced a fifth book worthy of standing alongside its predecessors.

Success in Court is in reality two books. The first, by Mr. Wellman; the second, by nine prominent American trial lawyers.¹ Mr. Wellman deals

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1. John W. Davis discusses appellate practice, using anecdotes to illustrate his ten cardinal rules. Frederic R. Coudert talks of international law, public and private. Floyd E. Thompson speaks of trial technique, stressing hard work as the key to success. Henry A. Uterhart also devotes his chapter to the trial of cases, comparing the lawyer's task to that of a general, preparing for battle. Joseph DuVivier tells of the

with the entire trial procedure, in fact even goes back to pre-trial work. Before attempting to give his readers any precepts, the author qualifies himself as a trial lawyer. In very entertaining fashion, through the medium of illustrative experiences of his own and those of others, we are told of his early career. The thesis of these stories is that one can become a fairly good trial lawyer without ever trying a case. This view is different from that of other writers in the book who hold that the quickest way to become a good trial lawyer is to try cases.² Mr. Wellman, however, questions the likelihood of an inexperienced lawyer getting the opportunity to handle many cases in court.

But apart from this general thesis, the book is worthwhile; for each anecdote has its particular purpose and is interesting in itself. The reason for this is obvious: Mr. Wellman has had a wealth of experience. He has known many of the famous members of the American Bar; and, as he advises others to do, he has studied the lives of those who went before him. In the author's own words, "there is no obligation upon anyone to offer an excuse for telling an amusing story provided it is pertinent to the subject under discussion".³ At times it almost seems as though the subject is under discussion just so the amusing stories may be pertinent to it.

Mr. Wellman, once having qualified himself, goes on to discuss the selection of the jury, the opening to the jury, direct examination, cross-examination and summation. The longest and most entertaining of these sections is that on cross-examination. Since the author's first book was entitled *The Art of Cross-Examination*, and since he has had much success in that art, this is not surprising. The subdivisions are not too obvious and the author explains that this was purposely done "to make a story or narrative of my suggestions in the hope they will be read 'aloud'".⁴ He teaches by concrete example, not by precepts, and thus his text is more digestible.

The other nine chapters are part of a scheme long carried in Mr. Wellman's mind.⁵ The contributors were informed of the title of the book and asked to submit signed chapters on that subject. They were told nothing more. They did not see the other contributions until the book was published. It is interesting to note then what varied meaning "success in court" has to nine successful trial lawyers.

Just as in the first part of the book, these chapters, also, are rich in anecdotes. Because of this, *Success in Court* is bound to be popular with the general public: the public that enjoys a play or motion picture with a trial scene in it. The legal profession will, of course, enjoy the stories as such; but the lawyer will also enjoy the stories for the knowledge and techniques they impart. In addition to all this, Mr. Wellman's enthusiastic references to the lives of many men and to the books written about them, plus his advice to study the techniques of others, should instill in the young lawyer and law student at least the desire to proceed further in his study.

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practice of an American lawyer in France. The chapter contributed by Martin W. Littleton deals with the cross-examination of the expert witness. The remaining three chapters, by Emory R. Buckner, Luther Day and Weymouth Kirkland, are concerned with the actual trial of cases.

2. Page xii.
3. Page 135.
4. Page 219.
5. Page xi.