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BOOK REVIEWS

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WORKMEN'S COMPENSATION IN SOUTH CAROLINA, by William Hayes Simpson, Department of Political Science, Duke University. (Durham, N. C., 1949.)

In preparing a case we, as practitioners, are all too often inclined to confine our studies to the narrow points confronting us from the particular facts at hand, losing sight of the broad aspects underlying the particular field from which the case arises. This comprehensive work by Dr. Simpson will give a clear understanding of the background against which claims arising under the South Carolina Workmen's Compensation Law should be considered. While it is not a case book, or a legal text to which members of the bar can look for many citations of authority, it does give a clear and comprehensive history and theory of the Act as well as a practical summary of its administration, and various problems arising in connection therewith.

The book traces the historical development of the entire question of Workmen's Compensation, starting out with the earliest act of this type, namely the Employer's Liability Act of 1871, an enactment of the German Government, and the similar English act of 1880—both of which bear a striking resemblance to most of the modern acts on this subject, including the one presently extant in South Carolina. Dr. Simpson points out that the rule enunciated in England in 1837 in the case of *Priestly v. Fowler*, 3 Mecs. and Wells 1, allowing a workman to collect compensation for occupational injuries only where the employer was guilty of some negligence, and that the employee assumed the negligence of fellow servants of the same grade, was first adopted in the United States by South Carolina in the case of *Murray v. The South Carolina R. R. Co.*, 36 Am. Dec. 268, and then widely followed by other states. The unjustness of this theory led to the adoption of various types of Workmen's Compensation Acts, the first in this country being that of Wisconsin, May 3, 1911, and the last that of Mississippi on January 1, 1949.

The book indicates how the tremendous industrial growth of South Carolina brought to the attention of its people, the many industrial problems, especially the need for modification of the theory of the *Priestly* and *Murray* cases *supra*, and traces the history of the agitation for a Workmen's Compensation act in this State, and sets forth a detailed legislative history of the bill. The book also points out that although in a few states the courts administer the act, that in the vast majority of jurisdictions, as in South Carolina, the statute is administered by a Commission. The enormous growth of Workmen's Compensation cases is illustrated by the fact that from 1935 to 1949 the cases heard have almost quadrupled, and the compensation arising therefrom has increased from \$250,000 to \$1,800,000 per annum. An interesting point also brought out is that ninety per cent of the cases

are uncontested. The book also gives an exhaustive study of procedure under the act, and the need for claimants to retain counsel, as well as fees paid to counsel and medical examiners. Dr. Simpson also discusses in great detail various types of insurance obtainable—stock and mutual companies, insurance, and the "State Fund" type of insurance,¹ discussing the advantages and disadvantages of each type. He also goes to great detail concerning the refinements of rate making, and discusses in full the agitation of 1944-45 arising from an application by insurance companies for an increase of rates.

As has been said, this is an excellent book for anyone wishing to study the broad background of the Act, and as a very practical manual for practitioners, as well as laymen, handling claims arising thereunder, and it is certainly a definite contribution to the literature on this subject.

ARTHUR WILLIAMS

SUCCESSFUL TRIAL TACTICS, by A. S. Cutler, Prentice-Hall, Inc., New York, 1949. 319 pages.

Law students and lawyers have long felt the need of a practical guide to the tactics of a trial. *Successful Trial Tactics* attempts to fill, and to a large measure succeeds in filling, this need. This book is written by a well known trial lawyer who has spent some thirty years in trial practice, and is replete with illustrations and anecdotes taken from the author's own experience. Starting with a short chapter explaining why every lawyer, even those who never see the inside of a court room, should have some knowledge of how a trial case is conducted, the author gives a step by step portrayal of the various phases in the progress of a trial, from the happening of the events giving rise to the litigation to the successful completion of the trial itself.

Probably the most important lesson which the author strives to drive home is that it takes work to handle a trial correctly. "Preparation, more preparation, and still greater preparation is the secret of the successful trial lawyer's life." Throughout the book this precept is mentioned. It is made clear that skill in the handling of a trial can never, or almost never, offset a lack of preparation. It is shown, however, that skill can aid a strong case and can, to a great extent, avail even under the disadvantage of an otherwise weak case. To give some understanding of the proper technique and skill is the purpose of this book.

In order to show this technique, Mr. Cutler has chapters on such subjects as planning the order of proof, with suggestions as to the order of witnesses, lawyers tricks and tactics, the difference between facts and evidence, and all the other facets of a trial, with advice as to the strategy to use at various times, and with apt examples from

(1) At the time Dr. Simpson wrote this book there was no general fund through which employers could insure under the provisions of the Act. Since that time, namely on April 6, 1949, a bill was introduced into the Legislature, Senate Bill No. 233, to provide such a fund as this. However, the bill was still in committee when the Legislature adjourned.

actual trials. The use of direct, redirect, and cross examination is fully covered. An important section is devoted to the introduction and effective use of documentary evidence, the author pointing out that often the importance of a document is lost upon the jury by the ineffective manner in which it was handled. A chapter is used to analyze the construction and use of the hypothetical question. Many other problems such as proper handling of a bill of particulars, the use of the subpoena, the selection of a jury, and the maneuver of calling the adverse party as your witness, are discussed.

Some of the value of the book to the South Carolina practitioner is lost, of course, because this book was not written expressly for use in the Courts of this State. For example, few South Carolina lawyers will find the chapter on the opening statement of any use. Naturally it is impossible for any book of three hundred pages to cover the variances and idiosyncrasies of all the courts in the United States. It is obvious, however, that the strategy of a trial before a jury is similar everywhere. In *Successful Trial Tactics* this strategy is presented in a clear and unambiguous manner which will reward the reader with some useful knowledge.

WALTER J. BRISTOW, JR.