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Book Review: A Treatise on the American and English Workmen’s Compensation Laws

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literature of the subject, as is well illustrated, as to the latter, in Professor Liszt's standard work Das Völkerrecht (ed., 1910) p. 51.

Chapter IV on "The Limitations of Arbitration" calls attention to the weakness of arbitration under circumstances often of the deepest importance. We think, nevertheless, that Professor Brown somewhat underrates the power of arbitration itself. When employed with the right spirit behind it, it would seem of incalculable value and destined to be adopted in coming times as an indispensable factor in maintaining world-peace.

In the chapter on "International Administration," attention is called to the many forms in which international action is "essentially administrative"—as in the universal postal union, the telegraphic union, the international union for the protection of industrial property, etc.

Chapter VII on "The Dangers of Pacifism" acutely analyses the tendencies comprehended in this term. In Chapter IX on "Democracy and Diplomacy," Professor Brown doubts "the desirability for us of having a permanent, classified, diplomatic service, offering, as the army and navy, a life career"; but he thinks "that a classified, permanent, diplomatic service—at least at the present stage of the country's development—is decidedly unwise and undesirable." We are inclined to think that our author's views would not find confirmation in the experience, for example, of such a country as France, where in a government assuredly of the people diplomatic service offers an attractive life career to men of the best abilities. In our own case, it would seem that an expected permanency in service would greatly enhance the attractions of diplomacy to men of ability.

Professor Brown's concluding chapter on "The Substitution of Law for War" treats a great subject in a clear and interesting fashion, and his book has much value at such a time as the present when the fundamentals of international law can not be too widely examined and discussed.

GORDON E. SHERMAN.


So rapid has been the spread of the theory that society and not the individual shall pay the cost of industrial accidents that
a subject which six years ago was of no real interest to the ordinary practitioner of this country, now justifies the devotion of two large volumes containing nearly one thousand pages each to its practical, rather than theoretical aspect. Germany enacted a sick insurance statute in 1883; England adopted its first compensation act in 1897; but with the exception of the Federal act of 1908 applying to certain government employees and the first New York act of 1910 held unconstitutional in the *Ives* case, the history of workmen's compensation in this country dates from 1911. Between 1911 and the end of 1916, acts were enacted in thirty-two states. As compensation cases in all probability are the first that come to the young attorney, and the most frequent that come to the lawyer in general practice, the value of this comprehensive text-book of compensation cases is easily apparent.

The thoroughness with which the author has searched his authorities is truly remarkable. He has not relied simply upon reported decisions of courts of last resort, but has quoted authorities not easily available and not digested in the current legal reference books. Herein lies the great merit of the work. It is encyclopedic rather than analytic in character. But the fact that here are decisions of industrial accident boards and of compensation commissions and opinions of various state officials upon new points of law where precedents are lacking makes the work a practical handbook on the subject. The manner in which the author has arranged the mass of material does credit to his ingenuity and skill. An excellent index makes the matter easily available.

Some errors in proof reading such as the misspelling of "liability" on page 333 have crept in, and it is difficult to understand why, when the index and table of cases refer to pages, the inconvenient system has been adopted of placing the section rather than the page number in the upper outside corner of each page of the text. In general, however, the mechanical appearance of the work is beyond criticism. The defects in the work itself are such as inhere in all books on the digest plan, where the very completeness with which the authorities are covered leads to error. The search for the particular precedent causes the author to forget the general proposition of law. Thus, for example, on page 107 the author cites two decisions of compensation commissioners as authority for the proposition that Part B of the Connecticut act applies to employers of less than
five persons who have not rejected it. The real authority for this point was the decision of the Supreme Court in *Bayon v. Beckley* (1915) 89 Conn. 154, cited elsewhere in the book, but as the author shows elsewhere the act was amended in 1915 so as to exclude an employer of less than five in the absence of a definite acceptance of the act.

The entire second volume is given up to a reprint of the texts of the various state compensation acts, the Federal act, and the English act, together with a synopsis of the present German law. The bulk of the work is doubled by this reprint which adds little to the value of the work. The lawyer for whom the compilation of authorities contained in the first volume is primarily designed will have little use in his practice to refer to this part of the work, while those who may desire the exact texts of the various acts may obtain them in other and more proper places. Moreover, as the acts are constantly being amended, a labor of this character is decidedly ephemeral. As many state legislatures meet in the year 1917, this part of the work will be largely out of date before the year is half gone.

A more complete discussion of the historical background for this kind of legislation might have been desirable. And the time is fast approaching when a scientific discussion of various questions involved in practically all compensation acts such as the question when an accident arises “out of” and “in the course of” employment will be of more value than a book of the digest character. But until precedents have accumulated in each jurisdiction, probably the author was wise in following closely his purpose, which he has so well accomplished, of supplying that *sine qua non* of the practising lawyer, namely, a case in point.

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