

INDUSTRIAL INJURIES. Volumes I & II. By Horatio Vester & Hilary Ann Cartwright. [London: Sweet & Maxwell. Vol. I pp. xxi + 308 incl. index. Vol. II pp. xiii + 173. £3. 3s. for two volumes.]

The area of the law generally denoted by the term 'industrial law' has attracted comparatively little attention from English lawyers. For this reason, these two volumes by Vester and Cartwright on the National Insurance (Industrial Injuries) Acts, 1946 to 1960, are therefore welcome.

Volume I is an exposition of the Acts and the regulations made under them while volume II is a digest of decisions of various insurance tribunals.

The two volumes have numerous commendable features. The two tables of content are adequately detailed. The types are well chosen and are suitably varied to provide a pleasant typography which makes for easy reading. The arrangement of the contents of the two volumes is identical. This facilitates the looking up of references contained in the first volume in the second.

There is a questionable innovation. Each chapter is preceded by a table of contents deceptively titled 'Introduction', which is in fact reproduced from the tables of contents at the beginning of each volume. Does this duplication serve any purpose?

The two volumes are written in admirably clear language but suffer from several limitations.

First, the learned authors seem content to pose the legal problems without attempting helpful or original answers to them. Thus, on the distinction between independent contractors and employees, they state (at page 31 in volume I):

He (*i.e.* the independent contractor) is distinguished from the employee or servant by the degree of control which the employer has the right to exercise over the performance of the work. As the distinction depends on a question of degree it often gives rise to difficulty.

The learned authors' treatment of decisions digested in volume two is open to two objections.

First, the digested decision contains only a g-string statement of facts and the conclusion, omitting any summary of and comment upon the reasoning. This results in some hardly comprehensible decisions. For example, at page 6 in volume II is the following:

(v) Fruit Picker. M.8. Where a fruit picker's husband was paid for the fruit picked by her, she was held to be in insurable employment.

The second objection is that the learned authors' treatment of courts' and tribunals' decisions is a totally uncritical one. They implicitly accept every decision as correct. No attempt is made to distinguish decisions which surround fact-situations that are apparently similar but which went in different directions, *e.g.*, *Gould v. Minister of National Insurance* [1951] 1 K.B. 731 and cited at page 31 in volume I and the tribunal's decision on the *Resident Variety Artiste's case* reported at page 7 in volume II.

At page 73 in volume I, the learned authors seek to explain what is meant by the term 'arises out of and in the course of employment'. They give the following example. A nurse was injured while sleepwalking. At the time she was 'off duty' but was required to sleep on the premises. There was evidence that the emotional strain of her work could cause sleepwalking. The tribunal held that her accident arose out of and in the course of her employment.

In keeping with the learned authors' methodology, the tribunal's reasoning is not indicated. We can only conjecture that the tribunal reasoned that as there was evidence that sleepwalking was induced by the nature of the claimant's employment, it therefore arose out of her employment; and that as it occurred while she was doing something, *i.e.*, sleeping on the premises, which she was ordered by her employer to do, the accident also arose in the course of her employment.

The learned authors state that the two phrases 'arising out of the employment' and 'in the course of the employment' do not state two tests but one; and that the decision is an illustration of the application of this single test to a fact-situation. The learned authors omit to state what this single test is? Perhaps it has two limbs!

T. T. B. KOH.