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BOOK NOTES

WILLIAM M. EVARTS—LAWYER, DIPLOMAT, STATESMAN. By Chester L. Barrows. Chapel Hill: The University of North Carolina Press. 1941. pp. viii, 587. \$4.00.

In an era of great orators, Mr. Evarts became one of the foremost, if not the foremost, orator of his time. But, above all, he was a lawyer and such was his ability that he was slated to become Chief Justice of the United States Supreme Court. This honor was denied him, however, due to political enmities incurred when he successfully defended President Andrew Johnson against impeachment charges.

Granted that Mr. Evarts was a remarkable man, it seems incredible that he could have accomplished so much in one lifetime, albeit it was a long one! He was Secretary of State, Attorney-General, Counsel at Geneva where the Alabama claims were settled, authority on international law, corporation lawyer and in between times, he found time to oppose the ablest lawyers of the day and to win favorable decisions approximately three-quarters of the time! He also helped crack the Tweed ring, was a charter member of the Republican party and was first president of the New York Bar Association.

His learning and his capacity to learn he attributed to the formal discipline instilled in him in the Boston Latin School and his later studies at Yale and Harvard under Professors Story and Greenleaf. But it was really his intense love of the law plus his remarkable gift of oratory that made him the most outstanding lawyer of the nineteenth century. Excerpts from a few of his great speeches show his far-sightedness, *e.g.*, his advocacy of Pan-Americanism, his concern with national problems and his desire to perpetuate the America way of life. In fact, these words "held to a strict measure of accountability", framed in 1879 when American interests were threatened, and used again by Woodrow Wilson in the *Lusitania* note of 1915, could again be used today.

The biographer cleverly weaves quotations from the more famous speeches into the story and holds the reader's interest to the end. Lawyer and historian alike should acknowledge this work of Chester L. Barrows; the former, for the able telling of the tale of a great lawyer; the latter, for an insight into the politics and political scandals of the day, authenticated by an extensive bibliography. From either viewpoint the American public is properly introduced to a great man—William M. Evarts.

ARBITRATION IN ACTION. By Frances Kellor. New York: Harper & Brothers. 1941. pp. ix, 412. \$3.50.

"Arbitration in Action" was, the preface says, written ". . . in response to an overwhelming number of inquiries . . . by men, organizations, companies, and unions who want to know how, when and where to arbitrate disputes. . . ." That the work accomplishes this with eminent success is obvious. It goes, however, much further in that it proves itself to be of value to the legal profession.

Today the nation is engaged in a gigantic effort to immunize itself against aggression. Production time lost in dispute may be as costly a defeat as one suffered on the battlefield. Arbitration assures the speedy solution of disputes. To those who would arbitrate, "Arbitration in Action" is an indispensable primer. Starting with the nature and purpose of arbitration, Miss Kellor takes the reader in hand and step by

step leads him through the arbitration proceeding. The numerous components of such proceeding are thoroughly examined and explained. The purpose of the book is description and in that it succeeds.

If criticism there must be, its direction is toward the law treated by the book rather than the treatment of the book. Particularly in the admission of evidence before the arbitrator is there fault to be found. Arbitrators, with their wide discretionary powers, are permitted to reject evidence which a court would be bound to accept and to admit evidence which a court would have rejected. The reason for this latitude is that the fair result is the desire. Toward that end the arbitrator is the best judge as to the value of all the evidence. The rules of evidence presently in use in the courts were evolved to insure the fairest possible presentation of evidence to the trier of the facts. Were an attorney the arbitrator, he could receive all the evidence presented for he would be conditioned to disregard that which was hearsay, immaterial or incompetent. But where, as in many instances, a layman serves as arbitrator it seems reasonable to assume that often the result is severely influenced by evidence of little or no probative value.

Although it is nowhere stated in the text, the reader gains the impression that Miss Kellor considers arbitration proceedings as separate and apart from the judicial system. It would seem from the numerous decisions and the legislation governing it, that arbitration is a part of the judicial system. Arbitration is designed to afford the swift and effective settlement of disputes. In its support and enforcement of arbitration, the courts recognize themselves to be laggard in those disputes where arbitration is the quick remedy. Nevertheless, the arbitration decree is coercive only through the enforcement given such decrees by the courts.

Whether by accident or design, the annotation of the text with New York cases makes the book doubly desirable to the New York bar. The collection of unreported cases serves as silent tribute to the scholarship of the work. The extensive appendix affords an excellent reference to the legislation and to the rules of arbitration.