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## Busch: LAW AND TACTICS IN JURY TRIALS

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## RECENT BOOKS

This department undertakes to note or review briefly current books on law and materials closely related thereto. Periodicals, court reports, and other publications that appear at frequent intervals are not included. The information given in the notes is derived from inspection of the books, publishers' literature, and the ordinary library sources.

## BRIEF REVIEWS

*LAW AND TACTICS IN JURY TRIALS.* By *Francis X. Busch*. Indianapolis: Bobbs-Merrill. 1949. Pp. xxvii, 1147. \$17.50.

This book is both a scholarly presentation of the law relating to the origin, constitutional status and effective utilization of the right of trial by jury, and a practical guide to the art of jury persuasion. Although the author has devoted his life to the active practice of law in Chicago, where he became one of the leaders of the bar, there is no tendency to stress the particular rules or doctrines in force in Illinois, but on the contrary all problems are dealt with in the light of the varying views developed by statute rule or decision among American jurisdictions.

It is the author's belief that a jury trial should be considered by the advocate as a unified and coordinated proceeding having the single purpose of persuading the triers of facts of the righteousness of the client's cause. "This persuasion," he says, "is a gradual process commencing when the jurors take their seats in the jury box and catch their first glimpse of the lawyers and their clients, and continuing until the triers are consigned to the custody of the bailiff and confined for their deliberations. Consciously or unconsciously, everything that happens in the court room in the presence of the jurors makes its contribution to their ultimate state of mind concerning the issues they are sworn to decide." Accordingly, says the author, "The aim of this book has been to present all the contacts which the trial lawyer has with the jury in the course of a contested trial, and to indicate how such contact may be utilized and directed to induce the desired persuasion."

This eminently sound view of the nature of a jury trial has been consistently adhered to throughout the course of the book, and has determined the method of treatment and the nature of the subject matter. Every step taken is considered in its bearing upon the final result to be obtained through the verdict of the jury.

As a handbook on trial practice the book is extraordinarily comprehensive and well documented with references to cases, statutes and rules. There would seem to be few questions relating to the conduct of a contested trial to which it would not supply satisfactory answers. All the essential processes involved in a jury trial are fully discussed—Right of Trial by Jury, Functions of Court and Jury, Preparation of the Case, Selection of the Jury, Opening Statement, Presentation of Evidence, including Direct and Cross Examination, Objections and Exceptions, Argument, Instructions to the Jury, and Verdicts.

Obviously the presentation of evidence is the major problem in any contested case, and the author has devoted more than half the book to that difficult subject. It is here that he gives the reader the most interesting results of his broad experience at the bar, discussing such important matters as the best order in which to call witnesses, the art of cross-examination, how to present depositions most effectively, lawyers as witnesses, use of interpreters, direct and leading questions, refreshing a witness's memory, use of photographs and maps, impeaching witnesses, and finally, as perhaps the most difficult of the problems involved, the use of opinion and expert evidence, with special emphasis upon medical testimony and questioned writings.

In numerous places throughout the book the text is illustrated by verbatim excerpts from court proceedings, which are in most cases followed by critical and explanatory comments by the author, pointing out salient features and suggesting how far the course adopted was successful in accomplishing its purpose and in what respects it failed.

Lawyers and law students interested in trial practice will find this volume an extremely convenient and valuable commentary on that fascinating subject.

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