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Heart Disease and the Law: The Legal Basis for Awards in Cardiac Cases, by Harold F. McNiece

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HEART DISEASE AND THE LAW : THE LEGAL BASIS FOR AWARDS IN CARDIAC CASES. By Harold F. McNiece. Englewood Cliffs, New Jersey: Prentice-Hall, Inc. 1961. Pp. xxiii, 631. \$25.00.

One of the most serious problems of health in industry is heart disease. A common form of this disease is estimated to affect over half of the working population between age 51 and 55. Thereafter it rises to

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three-fourths of the labor force. Another way to measure the problem is by looking at the fact that survivors of heart attack (acute coronary occlusion) return to productive activity at the rate of half a million a year. This problem of heart disease, however, is not primarily medical, but rather social and political. That is, it is imbedded in attitudes towards the disease on the part of patients, industrialists, labor leaders, physicians, lawyers and judges. All these attitudes have in common a certain resignation to defeat by the disease, and an accompanying willingness to indulge in excessive fears of it. This means that a patient, for example, who is making good progress in repairing the tissue damage is nevertheless rendered unproductive although he has years of useful life remaining. This results from a combination of his own pessimism with that of his doctor and his employer. While resignation is a tolerable and in many cases laudable adjustment to well-founded fears, when it is misplaced it actively induces waste and unnecessary suffering.

This study, directed by Dean McNiece, is therefore a public service of the highest order. It provides lawyers, judges and workmen's compensation tribunals with an accurate record of what they have been doing to make it difficult for a cardiac patient to recover when his greatest need is to return to work. This study is not, however, a mere tract. It provides the record by which the reader may judge for himself wherein our institutions have shortcomings. After a medical introduction by Doctor Paul Dudley White, Dean McNiece examines the legal framework for cardiac cases and treats in detail physical strain, mental strain, trauma and other causes of cardiac injury. After a chapter on occupational disease and cardiac claims, and one on the special situation of civil servants; he turns his attention to apportionment, second injury, waiver, "impartial" advice and medical criteria. Completing the historical, descriptive and expository part is a chapter devoted to various types of claims: Federal Employees' Liability Act, Jones Act, Longshoremen's and Harbor Workers' Act, insurance, pension and negligence claims. In 138 pages the author concludes the text with critical material and the expression of opinions which in the main, if carried into effect, would impose a tighter rein on the pallid horse of heart disease.

Dean McNiece declines to take a position on a cardiac second injury statute on the ground that his study does not extend to investigation of the particular problems of financial policy in the several states. Instead, the recommendations emphasize issues common to all compensation plans. For example, one recommendation rightly emphasizes the fundamental question of relationship between strain and heart incident of a disabling character, which is a medical question, rather than the distracting legal issue of "unusual" strain. Another emphasizes the value of autopsies

and the hazards of reliance upon death certificates. A recommendation similar to the one concerning "unusual" strain advises against the wooden distinction between "possible" and "probable" in medical testimony with reference to causation. The broad-guage proposals designed to afford medical witnesses on the one hand the best current knowledge about the cardio-vascular system and on the other an informed perspective of their role as participants in litigation are properly qualified by observations that medical knowledge cannot be expected to solve all the difficulties that result from imperfect information, nor should it be used to resolve issues of policy such as are imbedded in terms like "arising out of" or "causation."

One may, without disparaging the wide dissemination of information to general practitioners, urge greater emphasis upon one aspect of their role as medical witnesses than these recommendations endorse. That emphasis depends upon the distinction between the competence of the general practitioner to provide evidence of the particular facts concerning his patient, and the competence of the heart man to expound the best tested and most recent general learning about the heart. It is well to suggest, as Dean McNiece does, that medical witnesses should not be badgered or cajoled to give legal conclusions. It is to be regretted, however, that the study does not lay more stress upon the division of labor within the medical profession, when it is so directly related to intelligible policy in the administration of heart claims.

The main text is well documented; but in addition it is further supplemented by an appendix of 427 pages of reports from the fifty states, the District of Columbia and Puerto Rico. There is also a report on second-injury funds from a committee of the International Association of Industrial Accident Boards and Commissions, a table on civil service provisions, the statement of the Utah Plan and a "Guide for Establishing Causal Relationship Between Trauma or Strain and Heart Diseases" from a committee of the Washington (State) Heart Association. This book should prove to be a thoroughgoing reference work for the practitioner, whether his case is before a court or a board.

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