

BOOK REVIEWS

PROCEEDINGS OF THE MARYLAND COURT OF APPEALS 1695-1729. Edited by Carroll T. Bond, Chief Judge of the Maryland Court of Appeals, with the collaboration of Richard B. Morris. American Historical Association, Washington, 1933. Pp. li, 673.

No branch of American history has been, until recent years, more neglected than that concerned with the law. Political history has to a large extent engrossed the professional historians, while the bar has seldom ventured beyond biographical and antiquarian notes. The expansion of these insignificant settlements into a great world power has called for men of action rather than reflection, the hardy pioneer rather than the pallid archivist. Now that the springtime of the great republic is over, intellectuals may endeavor to interpret what their predecessors lived. But if a coherent account of our early legal institutions is desirable, as may be admitted, and is to be produced, which is still for the future, judicial records and kindred material now buried and almost inaccessible in state and county archives must be brought to light, edited and published before they are completely destroyed through official carelessness and ravages of time. Believing that the hour has come for a systematic effort in this direction, a conference of historians and members of the legal profession interested in historical studies was held in 1930 under the auspices of the American Historical Association and a committee was appointed to sponsor a series of volumes of American legal records, the income of the Littleton Griswold Fund being applied to meet the expenses of publication.

The first volume of the series is a selection from the records of the Maryland Court of Appeals, principally in the early years of the eighteenth century, with a learned introduction by Chief Justice Bond. Maryland is particularly rich in early legal records and some have already been published in the state archives. The present volume contains minutes of the proceedings before the governor and provincial council, who constituted the court, and the formal record of the cases brought before them on writs of error to the provincial courts, with very complete abstracts of the proceedings in both courts. There is a great variety of material including actions of account, assumpsit and debt, chancery appeals, criminal cases, and much land litigation, contests over titles as well as boundary disputes. The judges of the court were planters and men of affairs in the community, most of whom had had some experience in judicial office as judges in the local courts. Many of them are given the title of colonel, so that the records have a quaint military flavor. Very few of the judges had other training in the law than that acquired by their own reading and judicial experience. That, however, was the rule rather than the exception in the American colonies and it is a mistake to suppose that this detracted materially from the value of their decisions. Educated men were then more familiar with the law, its forms and procedure than now. That was also the case in England where most of the local administration was in the hands of the country gentry as justices of the peace. Of the leaders of the bar several were members of the Inns of Court and lawyers of high capacity and there seems to have been a fair supply of law books in the colony. The records in this volume show familiarity with the forms of pleading and practice at common law and meticulous care in their use, but that does not make them easy reading. Legal documents of the eighteenth century both in the mother country and the colonies are burdened with so much formalism and circumlocution that it is difficult at times to separate the wheat from the chaff. To get at the joints of substantive law involved requires close reading and much patience, for these

are the formal, clerkly records and bear no resemblance to law reports, non-existent in the colonial period, since it was not then the practice for judges to file written reasons for their judgments, and the bar was not strong enough to make reporting commercially profitable. Nevertheless students of colonial history should be most grateful to the learned editors and their sponsors, who have placed in accessible form such a store of information. The lawyer will note with interest the great advance in technical skill as compared with the cruder records of the seventeenth century; the historian will catch a glimpse of plantation life on the Chesapeake when tobacco was king; the genealogist will read the names of those who were most active in the business and political affairs of the province. Remembering what the Selden Society has done for legal history in England, it is proper to congratulate the American Historical Association and their associates on their enterprise in undertaking this series of publications and to express the hope that they will have the generous support of the bar.

*William H. Lloyd.*

*University of Pennsylvania.*

PLEBISCITES SINCE THE WORLD WAR: WITH A COLLECTION OF OFFICIAL DOCUMENTS. By Sarah Wambaugh. Carnegie Endowment for International Peace, Washington, 1933. Two volumes, pp. ix, 603; xiv, 614. Price: \$5.00.

Miss Wambaugh has had unrivalled opportunities for the preparation of a definitive study on the post-war plebiscites. She is well qualified for her task by the preparation of *A Monograph on Plebiscites* for the United States delegation to the Paris Peace Conference, and by her services as technical adviser to the Peruvian Government in the attempted Tacna-Arica plebiscite. She has visited all the areas in which plebiscites were attempted or held since the war, collecting documents, and as she says on page ix: "talking with the men and women who had served on the various plebiscite bodies and the national party committees and those who had merely taken part in the voting. In this way the writer became acquainted with the various points of view, official and unofficial, of the people in the area concerned. Lawyers, editors, teachers, housewives, priests, and peasants, all were eager to talk of the plebiscite, which had been to them an episode of poignant interest." The list of officials with whom she has discussed the practical operation of plebiscites is impressive; the bibliography of 45 pages is superb.

In three chapters (I, XI and XII) Miss Wambaugh gives an historical summary and makes a comparative study of post-war plebiscites with the purpose of applying the lessons of the immediate past to the future. The intervening chapters treat in detail the plebiscites provided for by the Peace Treaties and the attempted plebiscite in Tacna-Arica. An appendix entitled *Unilateral Consultations* discusses plebiscites such as those held in the Aaland Islands and in Eupen and Malmédy which Miss Wambaugh refuses to admit were "plebiscites". The treatment is primarily chronological and nothing of importance is omitted. One could wish for topical and paragraph titles—an improvement which would facilitate comparison and reference. The chapters are not only complete and accurate; they are interesting to a high degree. Volume two is composed of official documents. The collection would be more readily useful if the German and Spanish documents were accompanied by English translations.

The author disclaims in advance any intention of defending the plebiscite as a means of making effective the principle of self-determination; despite the critical attention it has received at the hands of a large number of writers she feels that it has justified itself. Abuses in practice such as fraud, intimidation, and dumping of voters may be overcome by neutralization of the area, by the

evacuation not only of the troops of interested parties but of many administrative officials, and by careful supervision of registration and voting qualifications. The most important criticism of the plebiscite has probably been that even if abuses in practice are remedied, the population is stirred up, the decision is usually by a majority and no matter who wins intense bitterness and unrest remain as an unavoidable legacy. Coupled with this is the frequent assertion that a quiet decision by the Great Powers on the basis of "nationality" statistics is the most satisfactory alternative to the plebiscite. Both these contentions are apparently refuted by the facts presented by Miss Wambaugh. It is her opinion (page 486) that "As the agitation for revision of the territorial provisions centers precisely in those areas where no plebiscites have been held, the conclusion appears to be sound that the plebiscite, if held under approximately fair conditions, is more authoritative as a method of determination than are linguistic, historical, religious, strategic, economic, or other criteria." One of the most amazing parts of the book is the demonstration in several plebiscites that language statistics are no criteria of the desires of the inhabitants. To give but one example (page 250): In the vote by communes in Upper Silesia there were frequent variations of from 9 *per cent.* to 55 *per cent.* between the language census of 1910 and the actual plebiscite. Miss Wambaugh agrees that the plebiscite is not a universal remedy. In some places such as Macedonia the solution should properly be international rather than by a consultation of the wishes of the inhabitants.

Students of international affairs are indebted to Miss Wambaugh for the admirable skill and thoroughness with which she has written the history of the post-war plebiscites.

*Herbert W. Briggs.*

*Cornell University.*

CASES AND OTHER MATERIALS ON CRIMINAL LAW AND PROCEDURE. By Albert J. Harno. Callaghan & Co., Chicago, 1933. Pp. lviii, 952. Price: \$5.50.

"A case book should be arranged primarily for convenience in teaching." I suppose that every teacher of law would agree with this statement in the preface of Dean Harno's casebook. But when we examine the numerous casebooks on criminal law we find no consensus of opinion as to just what arrangement gives the greatest "convenience in teaching". At the 1932 meeting of the Association of American Law Schools, the Round Table on Wrongs discussed methods and aims in the teaching of Criminal Law. Out of the welter of new and sometimes startling ideas the remarks of Dean Harno struck a note of comforting soundness. In certain sectors there has been considerable agitation favoring approaching the rules of substantive criminal law from the generalization of the concept of act and intent. Dean Harno avowedly seeks to depart from this approach, and though he devotes a chapter to *General Considerations*, he attempts to treat each crime as a unit. Thus there are chapters on *Solicitation and Attempt, Assault, Battery, and Mayhem, False Imprisonment, Homicide, Rape, Receiving Stolen Property, Burglary, and Arson*. The exception to treating the various crimes as units is the chapter *Larceny and Related Offenses*.

Although older casebooks presented the historical and other background materials through cases, the use of excerpts from text books and other readings has become increasingly popular for this purpose. In certain fields it would be almost impossible to cover this material by the use of cases. Heretofore it has been left largely to the teacher's own ingenuity to present the subject matter dealing with the nature of crime and the different theories of punishment. No group of cases could perform this function as well as the extracts from readings which composed the first thirty pages of this casebook.

The treatment of certain subjects in the chapter *General Considerations* requires comment. For instance, in addition to sections dealing with general subjects, such as *The Mens Rea and the Criminal Act, Motive and Intention*, or *Concurrence of Act and Intent*, some rather specialized matter is dealt with in the section, *Criminal Negligence and Crimes*. This leads to a noticeable duplication of certain subject matter. Thus cases and annotations dealing with the "negligent and unlawful operation of automobiles" are found in the footnote on page 90, under the subject *Criminal Negligence and Crimes by Omission*. References dealing with assault, battery, and manslaughter with automobiles by negligent operation, are made in the footnotes on page 177, and cases cited on page 179 under the subject *Battery*. A collection of cases dealing with aggravated assaults with automobiles appears on page 183. In addition there is a collection of material on the "important subject of manslaughter through the negligent operation of automobiles" on page 270 under the subject *Homicide*. These subjects may well be sufficiently important to be worthy of such repetition, and the duplication may be more apparent than real. Possibly duplication is an inherent difficulty with treating individual crimes as units.

The placing of *Assault, Battery, and Mayhem* early in a casebook is desirable inasmuch as similar acts are frequently the starting point in the course in Torts. Where the course in Torts precedes the course in Criminal Law it is thus possible to use terms with which the student is already familiar. This is conducive to a natural beginning, in that the student has presented to him early in the course the differences between a tort and the corresponding crime.

One place where the *unit* approach to criminal law may be overworked is in the treatment of defenses which apply equally to all crimes. Dean Harno treats *Infancy* under a separate chapter. However, certain defenses are not treated generally, nor under all the specific crimes but are dealt with under *Homicide*. We find that *Coercion and Necessity, Acts in Prevention of Crime and in Furtherance of Public Authority, Self-Defense, Defense of Others, Defense of Property, Insanity, and Drunkenness* are all sub-headings of *Homicide*. In addition we discover that the negligence of the injured party is also dealt with under *Homicide*. There is not much material on causal relation and what little there is is dealt with under *Homicide*. It may be justifiable to treat certain defenses in this way because many of them are raised most frequently in homicide cases, and it is probably apparent to the student that if these defenses are effective in a homicide case that they will probably be effective in a case charging a lesser crime.

Dean Harno apparently has no particular attitude toward English cases, neither using them overmuch, nor shunning them as has become fashionable in certain circles. Approximately one-fifth of the cases in the substantive law part of the book are English cases. Almost one-half of these are in the chapter *Larceny and Related Subjects*. In addition there has been frequent resort to British Colonial cases. Dean Harno has used many late cases very effectively. Approximately one-fourth of the cases have been decided since 1920, and more than 15 per cent. since 1925. In many instances the cases chosen review the earlier cases and themselves provide the background and the modern law at the same time. Many of the footnote cases are very modern and increase the up-to-date effect. The emphasis upon the various crimes as measured by the space given them seems well placed unless one feels that 200 pages out of 736 dealing with substantive rules is too much to allot to *Larceny and Related Subjects*. Indeed the treatment is very detailed.

The procedure section is short, about 190 pages. Dean Harno says that he "felt that only a limited amount of space should be devoted" to procedure "within the bounds of a single case book. Detailed considerations have therefore been eliminated." There are only 63 cases in this section of the book. "Liberal use is made of the American Law Institute's Code of Criminal Procedure" and the

section sets out *verbatim* more than 120 sections of that code. The cases and readings selected form a skeleton about which the teacher may weave a more detailed and comprehensive course in procedure in the event that this is desired. The cases are even more recent than the cases in the substantive law section. Over 40 *per cent.* were decided since 1920. Problems such as probation, pardon, and parole are emphasized, and other modern problems, such as juvenile courts, and sterilization of defectives and habitual criminals are dealt with. Possibly too much space is devoted to arrest and related problems considering the shortness of the section. Of course, it may be argued that criminal procedure can be adequately dealt with only with reference to the laws of a particular jurisdiction and that there is no point in a casebook detailing the procedure of other jurisdictions.

For class room use the book has several desirable features. The cases are provocative both as to the facts and the decisions. Thought is encouraged by the juxtaposition of conflicting or apparently conflicting cases. On some subject matter rather too much has been relegated to the footnotes. This is particularly true of certain problems dealing with rape. In general the footnotes are exhaustive and illuminating. In a large number of cases the footnotes state the facts and the decision, but more frequently the facts are presented and the question left unanswered. The cases selected show clearly that in many instances dogmatic statements of the law are impossible, and make it obvious that the courts do not always reach either a logical or a desirable result.

The teacher and student will find the table of articles and readings, which occupies six pages, exhaustive as well as comprehensive. One value of the excerpts selected lies in the fact that the material has frequently been taken from English and Colonial periodicals and certain other sources which are not ordinarily available. The table, however, does not distinguish between readings from which excerpts have been taken and readings which are merely cited.

In a field where there are numerous casebooks, many of a late date, another casebook for its own sake might be hard to justify. Dean Harno himself says: "I have sought, beyond constructing a casebook, to describe the working of a social agency, to portray clashes of views, and to stress the need for the co-ordination of the contributions of the various agencies which come into the field. The effort has been made throughout to depict the Criminal Law and its administration as a growing, vital force for social regulation, and to show its trends and to point the way for its improvements." In achieving his objectives Dean Harno has been highly successful. After studying the book a student should realize, for example, that our whole attitude toward punishment is archaic, that our treatment of the mentally disordered offender is years behind the times, and that our system of probation and parole needs reorganization.

*Elwin E. Overton.*

*University of Tennessee, College of Law.*

THE AUTOMOBILE COMPENSATION PLAN. By Patterson H. French. Columbia University Press, New York, 1933. Pp. 262. Price: \$3.50.

We seem unable to reduce our annual total of 35,000 automobile fatalities and of a million or more serious automobile injuries. The problem of compensation for these deaths and injuries is important today and will be important for a long time. The only practical efforts at solution have been compulsory liability insurance, as in Great Britain and in Massachusetts, and the financial responsibility laws now effective in about half of the states. The "compensation plan" which Mr. French discusses is untried, though it has been widely discussed for some years.

A reader will not be converted by Mr. French to the compensation idea if his mind is permanently anchored in the tort tradition; but he may be impelled in either direction if his anchor is light, or if he has no anchor. The author has succeeded in presenting fairly all the aspects of a highly controversial problem, though his own view appears to favor the compensation experiment.

Many of the difficulties of the compensation plan, as Mr. French points out, are also difficulties in workmen's compensation. The administration of the law by a board, instead of by a court; the necessity of guessing at the amount of compensation in partial disability cases; the problem of medical care; all these problems have been met and partly solved under workmen's compensation. New problems would arise under a plan which would provide compensation for all injuries received in motor vehicle accidents, without regard to fault; the amount of compensation to be paid to non-earners and the necessity for allowing the injured person to choose his own physician are two of the most serious. It seems probable, however, that we shall ultimately come to the compensation plan, and that lawyers and judges will learn to welcome it because it will be found to operate with reasonable fairness and because it will relieve the courts in large cities of a great mass of tort litigation.

The report of the Committee to Study Compensation for Automobile Accidents, published by Columbia University two years ago, shows conclusively that the uninsured automobile is an insolvent menace on the highway, that under the compulsory liability insurance system of Massachusetts victims of accidents fare very much better than under the laws of the other states which require no insurance and that in spite of this merit the Massachusetts system has grave defects. Great claims are made for the financial responsibility laws, which in general allow each dog one bite before he is muzzled; but so far there is little evidence to support these claims. The lawyer who wants to consider fairly what is the best solution should first read Mr. French's book and should then read the report of the Committee to Study Compensation. He will find in these, and in some of the anti-compulsory-insurance articles sponsored by the insurance companies, particularly those of Austin J. Lilly, Counsel for the Maryland Casualty Company, a satisfactory presentation of the facts and of the arguments which may lead him to an intelligent conclusion.

*Shippen Lewis.*

*Philadelphia, Pa.*

THE RIGHT OF SEARCH AND THE SLAVE TRADE IN ANGLO-AMERICAN RELATIONS, 1814-1862. By Hugh G. Soulsby. The Johns Hopkins University Studies in Historical and Political Science, Series LI. The Johns Hopkins Press, Baltimore, 1933. Pp. xii, 185. Price: \$1.75.

Of Dr. Soulsby's book one is happy to say, in the first place, that it is well written. The narrative and the exposition are, with few exceptions, clearly developed in a way which holds the reader's interest.

The work is divided into four chapters, preceded by some introductory pages. The monograph begins with the close of the period of the Napoleonic wars, in the latter years of which, that is after 1807, the African slave trade had been forbidden to British subjects and the British flag; while, on the part of the United States, acts of Congress, culminating in that of 1808, had attempted to effect the same purpose. Dr. Soulsby strangely passes over, until the middle of the book, any reference to the tenth article of the Treaty of Ghent of 1814 by which it was agreed that both Great Britain and the United States should "use their best endeavors" to promote the entire abolition of the slave trade. After mentioning the activities of the British ministers at Paris in 1814 and at Vienna in 1815, and the treaties concluded by England with Portugal, Spain and the

Netherlands in the next few years, the author begins his narrative with Castlereagh's proposals for the establishment, by the great powers, of "an armed and international police on the coast of Africa". Castlereagh further suggested the concession of a mutual right of search by the signatory powers. In the light of Great Britain's superior naval power, the result of this in practice would be the appointment of Great Britain as international policeman. When, however, a similar suggestion was made by Castlereagh to Richard Rush, the minister of the United States, John Quincy Adams in the instructions which he sent to Rush and Gallatin refused to agree. Though constitutional grounds were adduced for this declination, the principal reason was the liability to abuse of the right of search in time of peace. This danger Adams perceived as a result of the experience which the United States had suffered in time of war when, as a neutral power, this country had seen its vessels searched by British cruisers in the enforcement of the practice of impressment.

When Canning had succeeded Castlereagh in the Foreign Office, the two governments drew closely enough together to agree upon a convention which, undertaking to treat the slave trade as piracy, granted a reciprocal right of search for slave traders as pirates; but when the Senate of the United States amended the convention by excluding the coast of the United States from the field of its operation, the treaty failed of ratification by Great Britain. Thereafter, until 1862, the United States government steadfastly refused to have anything more to do with a concession of the right of search.

The title of the second chapter, *Great Britain Acts Alone*, should be rather, *Great Britain Acts Without the United States*; for between the years 1825 and 1842 the British government constantly endeavored to increase the number of its right of search treaties with other countries, an effort in which it was generally successful until 1841, when the proposed Quintuple Treaty failed of ratification by the French government. In this period it became more and more the practice of slave traders to seek immunity from capture by raising the United States flag whenever a British cruiser approached. When such vessels were searched and the use of the United States flag and papers was proved to be fraudulent, the United States government made no objection. In the case of vessels which, though engaged in the slave trade in violation of the laws of the United States, were nevertheless really American, this government claimed that, in the absence of any treaty arrangement with Great Britain, it was the part of the United States and not the English government to arrest and punish such offenders: and this point was conceded by Great Britain, though somewhat grudgingly. But the real crux of the controversy appeared in regard to those vessels, genuinely American, which were not slave traders at all, but were engaged in legal trade in African or other waters, yet nevertheless were searched by British cruisers. To this practice the government of the United States declared it would not submit. Lord Palmerston developed and his successor in the Foreign Office, Lord Aberdeen, continued an effort to distinguish between the well known right of search and a right of visit: a distinction denied by our writers on international law and ultimately waived by the British. To the effort of President Tyler and Mr. Webster to avoid the dilemma by suggesting a practical way out through the establishment of a larger naval force of the United States off the African coast Dr. Soulsby devotes his third chapter, which also discusses the criticisms of the cruising convention embodied in the Webster-Ashburton treaty. In the last chapter, after some comment on the working of the squadrons under the treaty, the author turns to a very interesting treatment of the revival of the practice of stopping American vessels in the latter part of the decade 1850-1860, particularly in 1858 and 1859. Here the searching activities were carried on particularly in the waters adjacent to the island of Cuba. After much controversy the British government apparently surrendered the claim to the right of search, conceding the position presented by the Secretary of State,

Lewis Cass. At the conclusion of the volume is an account, not very adequate, of the negotiation by Secretary Seward of a treaty based on exactly the opposite policy. Moved by the desire to propitiate anti-slavery sentiment abroad, Seward now completely surrendered the historic American position. The new treaty fully conceded the right of search. The area of operation for the right, however, did not include the coast of the United States, but was limited first to African and Cuban waters, and later to those of Madagascar, Porto Rico and Santo Domingo.

This monograph has, then, not only literary merit but also the value that attaches to a comprehensive treatment of a difficult subject. Nevertheless a fair criticism of the book compels one to say that there are many defects which mar its usefulness for students. In the first place is to be considered the question of impartiality. It should certainly be possible now to write about the African slave trade in the same scientific spirit with which one could treat, say, the trade of England with India. But Dr. Soulsby leans very heavily upon the works of W. L. Mathieson, especially that entitled *Great Britain and the Slave Trade, 1839-1865*, published in 1929. In this Dr. Mathieson frankly declared that he had "found no scope for impartiality". Something of the same bias tinges Dr. Soulsby's treatment; it must be said, however, that his attitude of censure towards the United States is not always consistently maintained. Secondly, Dr. Soulsby, by beginning his study with the Napoleonic wars and the legal abolition of the slave trade, is enabled to avoid all reference to the fact that it was under the British Empire that the slave trade had been encouraged, even against the efforts of American colonies to limit it. Further, although at times<sup>1</sup> the author alludes to the charges that Great Britain's activity in stopping the slave trade and pressing, if not compelling, other powers to join in the cause, was dictated by other than humanitarian motives, there can hardly be said to be a fair effort to examine the validity of these charges.

It may be noted that in the *Index* the words Brazil and Cuba do not appear. Of course these countries are mentioned in the text, but there is nowhere a clear exposition of the essential fact that here were the great slave markets, and that the diplomatic negotiations of Great Britain with Spain and with Brazil were basically important to Dr. Soulsby's story. Dr. Soulsby has read, he tells us, every instruction from the American Secretaries of State to London and every dispatch from the ministers in London to Washington between 1814 and 1862, relating to the right of search and the suppression of the slave trade. He refers constantly to the useful compilation known as the *British and Foreign State Papers*, but from none of these sources, nor from the *Parliamentary Papers*, which he does not cite, has he presented any account of the action of the mixed courts set up by the reciprocal treaties between England and Spain and Brazil. There is little about the anti-slavery activities of British agents in the West Indies, or about British policy as to the abolition of slavery in general. The reader, therefore, can hardly gather from Dr. Soulsby's work why southern senators were skeptical as to British altruism and saw in the treatment of the emancipated Africans and in the development of coolie labor Great Britain's purpose to provide herself with cheap labor in the tropics, in competition with those countries where slavery still existed. He mentions the British sugar duties, but does not make clear the inconsistencies of this part of British policy. Perhaps Dr. Soulsby has felt that this would take him too far afield from the Anglo-American controversy over the right of search; but at least one might expect to find some account of the activities of Nicholas P. Trist in Havana and of Henry A. Wise at Rio. In the latter case, we have a United States minister from Virginia, hostile to the slave trade, who honestly endeavored to help to

<sup>1</sup> For example on pages 13-14 and 39-44.



put an end to it and who brought such charges against British policy that Lord Aberdeen himself felt called upon to make a reply.

On the other hand, perhaps the most original contribution which the monograph makes is derived from the author's use of a source hitherto not sufficiently exploited, the records of the United States Navy Department, which tell of the activities of the American vessels and reveal the difficulties which the conflict of theory evoked in practice. Upon the whole controversy perhaps the best comment is found in a few words of Lewis Einstein: "In invoking the freedom of the seas we were really attempting to free our trade from offensive measures carried out in the name of virtue. Each side used other causes to cover its real desires, and our success was one more step toward the assertion of the equality of American rights on the high seas."

*St. George L. Sioussat.*

*University of Pennsylvania.*

THE ADMINISTRATION OF WORKMEN'S COMPENSATION. By Ray Andrews Brown. University of Wisconsin Press, Madison, 1933. Pp. 88.

Wisconsin was probably the first state that enacted and put into operation a constitutional Workmen's Compensation Act in the United States. The Act<sup>1</sup> went into effect May 3, 1911. Under it the Industrial Accident Board was organized May 10, 1911. This Board was superseded by the Industrial Commission on July 1, 1911. The constitutionality of the Act was sustained on November 1, 1911, in the case of *Borgnis v. The Falk Company*.<sup>2</sup> The first Industrial Commission, manned by able and forward-looking men, began to chart in seas unknown to American court procedure and to American industry. During the past twenty years the Commission has developed a technique in practice that not only administrative boards but courts and lawyers as well may study with profit.

This little book, of less than 100 pages, is the result of a study in Social Science and History for the University of Wisconsin. In Chapter I Professor Brown says: "The student of administrative procedure must advance from the study of books to the study of legal institutions in actual operation." Accordingly, Professor Brown investigated the records of the Commission, examined its decisions and the decisions of cases appealed from the Commission; made a study of the personnel and qualifications of the commissioners and examiners; interviewed them and others familiar with the administration of the Act; attended hearings by examiners and commissioners; and thus obtained first hand information about the actual procedure in the administration of the Act.

In Chapter I the author discusses in general the subjects of justice through courts and justice through executive commissions, and in Chapter II gives the legislative and judicial foundation for the procedure by the Commission. In Chapter III are discussed the personnel and the organization of the Compensation Department; in Chapter IV, the activities prior to the formal hearing, such as reports of accidents, correspondence with parties, and investigations by the Commission's representatives; and in Chapter V are given the forms of the pleadings. Chapter VI contains 28 pages and is the longest chapter in the book. Here Professor Brown gives a picture of the actual hearings and procedure before the examiners or commissioners, and in Chapter VII he explains how the Commission arrives at a decision in a case. In Chapter VIII, Professor Brown gives his conclusions. He calls attention to some practices by the examiners and commissioners which if employed by less able and less experienced administrators might lead to injustice. He gives some constructive suggestions for improvement.

<sup>1</sup> Laws 1911, c. 50.

<sup>2</sup> 147 Wis. 327, 133 N. W. 209 (1911).

His suggestion for a public legal adviser to the many applicants for compensation who are not represented by attorneys, would correct some of the legally doubtful practices, assure greater respect in the Commission's decisions and lessen criticism. Although the book is local it has a general interest. In these times, when both federal and state governments are extending to administrative boards and commissions, functions and fields traditionally belonging to the legislative, executive, and judicial branches of our government, this little volume will prove an invaluable aid to those entrusted with administrative procedure and those affected by it. It is a valuable study and may well serve as a guide to administrative boards not only in the compensation field but in other social fields.

Thomas F. Konop.

University of Notre Dame  
College of Law.

CASES ON THE LAW OF PROPERTY—INTRODUCTION TO THE LAW OF REAL PROPERTY—RIGHTS IN LAND. By Harry A. Bigelow and Joseph Warren Madden. Second Edition. West Publishing Company, St. Paul, 1934. Pp. xi, 95; xix, 813. Price: \$5.50.

Dean Bigelow's *Cases on Rights in Land*, the second volume of the American Casebook property series, was published in 1919 and has been one of the two most popular property casebooks used in second year property classes. This work has now been brought down to date by Professor Madden, who has on other occasions collaborated with his former teacher, Dean Bigelow.

The introductory treatise to the law of real property, which comprised nearly a hundred pages, has been retained with but two or three minor changes and additions. This introduction has been a justly popular key to real property law for students ever since it first appeared.

No revolutionary changes have been made in the casebook proper. Three changes are to be noted. (1) While the arrangement of the first edition is followed for the most part, in three instances section headings have been altered or sections combined. For instance, the first two headings under legal enforcement of covenants are changed to allow the introduction of modern model statutes. In Chapter VI, the matter covered under two headings, *Suspension and Apportionment of Rents and Failure to Obtain Possession*, is treated under the single heading, *Defenses to Claims for Rent*. In Chapter VII, also two sections, *Remedies for Waste and Equitable Waste*, are put under one title, *Rights of Holders of Various Non-Possessory Interests*. These changes are really of minor importance. (2) A second change has been the dropping of about seventy-five cases and the addition of nearly a hundred new ones. This results in an increase in the size of the new casebook of nearly eighty pages. Almost without exception the cases omitted were of little teaching value, while those added by the reviser present the application of real property law principles to present day conditions; not more than eight or ten were decided before 1919. Of course it goes without saying that modernity is not necessarily a mark of excellence in a real property case; but in this particular instance, the cases introduced into the new edition show careful selection. (3) The third change is to be found in the matter of footnotes. More and better notes appear in the revised work. They follow the present day trend in the incorporation of references to notes and articles in the leading law reviews.

The new edition presents an attractive appearance in the green fabrikoid binding of the modern American Casebook Series.

W. Lewis Roberts.

University of Kentucky  
College of Law.