BOOK REVIEWS.

CASES ON INTERNATIONAL LAW. By Charles G. Fenwick. Callaghan & Co., Chicago, 1935. Pp. xxiii, 815. Price: $5.25.

This is a collection of cases illustrative of international law. It is primarily for students who are making their first serious study of the subject without previous legal training. The selection of cases is not so extensive as that recently published by Dr. Manley O. Hudson, and for that reason it is less useful for the mature student, but the cases presented, just under 200 in number, are well selected. The leading case has generally been taken to illustrate the point under discussion, and references to further decisions have been put in footnotes. In the main the selection of cases has been adequate, except in the field of "recognition", which has grown very rapidly in the last fifteen years. The subject of recognition has not been treated as a whole, but has been split up according to the object recognized. No real fault can be found with this classification.

The format of the book is attractive and the first page invites one. Even the notes are in type large enough not to discourage the student from noticing them. In a book for beginners, this matter of the appearance of pages is too often overlooked. It is a factor deserving serious consideration in rousing interest, or at least in not discouraging interest on the part of students. The table of contents is particularly good in this respect, showing the place of each subject in relation to the whole.

At the beginning of each subject are brief explanatory notes. On these the reviewer is tempted to be enthusiastic. What student trained by the "case system" will forget his early efforts to make the cases have meaning? He is

> "Perplexed, bewildered, till he scarce doth know
> His right forefinger from his left big toe."

He listens to the classroom discussion and renews his efforts. There must be something somewhere.

> "Something hidden. Go and find it. Go and look behind the Ranges—
> Something lost behind the Ranges. Lost and waiting for you. Go."

And so at last, according to his philosophy, he comes to the conclusion that cases are points in a graph through which a significant curve can be drawn, or that they are isolated particulars from which no generalities can be induced.

After all, a case book without a teacher, or some equivalent coordinating force, is of small value unless it be so all-inclusive as to be a digest, and then it ceases to be a case book at all. Now the introductory notes which Dr. Fenwick has written supply very well this need of the student who is beginning to work with cases. Taken in conjunction with the table of contents, the subject of international law may be seen as a whole and the beginner, metaphorically, may see the trees and still not lose hope of seeing the woods.

The reviewer believes that the book will be useful as a supplement to lectures and texts in international law in college undergraduate courses, and is a worthy addition to the list of publications which the professor of political science at Bryn Mawr College has already made.

Roland S. Morris.†

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RECHT UND SITTLICHKEIT. Dritte erweiterte und vermehrte Auflage. By Rudolf Laun. Verlag von Julius Springer, Berlin, 1935. Pp. vii, 109.

To the third edition of his well known Hamburg rectoral address of November 10, 1924, Professor Laun has appended five chapters developing and supplementing his original discussion of law and morals. These chapters are shortened by means of repeated references to his intervening works, *Der Wandel der Ideen Staat und Volk als Äusserung des Weltgewissens,* Barcelona and Berlin, 1933, and *La Démocratie,* Paris, 1933.

Repudiating the conception of law as an externally imposed obligation (*heteronomes Sollen*), Laun's primary thesis is that law is either a mere matter of physical constraint (as in the famous opinion of Justice Holmes) in which case there is no obligation to obey (*Sollen*), or else it is sanctioned by the individual conscience (*autonomes Sollen*) in which case the obligation is self-legislated and not externally imposed. The dogma of legislative omnipotence thus falls, for no lawgiver wields unlimited physical power, and the moral authority of his commands must be judged by those to whom they are directed.

Positive law is thus a physical phenomenon based upon mass obedience. But secondly, it is a moral phenomenon because there is a prevailing consensus among those who obey that such obedience is morally justified. The people as a whole are always the source of law, whatever the form of government. The national unity of a people (*Volkstum*) is a moral conception, and no form of materialism, whether Marxian economic or Nazi biological, can supplant inductive study of public sentiment (*Rechtsgefühl des Volkes*) as the true critique of law. Contemporary efforts to eliminate Roman law in Germany (while introducing innovations borrowed from Italian public law) are manifestations of popular dissatisfaction with abstract legalism out of touch with social conditions in the nation (*Volksrecht gegen Juristenrecht, Weltfremdheit der Juristen*).

Edward Dumbauld.†

BANKRUPTCY IN UNITED STATES HISTORY. By Charles Warren. Harvard University Press, Cambridge, 1935. Pp. v, 195. Price: $2.00.

Mr. Warren's volume on the history of bankruptcy in the United States is a welcome addition to the literature on a subject which has been neglected by the economic historian. In view of the recent strained financial and economic relations in the United States during a severe and prolonged depression, this study is especially timely. The author succeeds in his attempt to place the agitation for bankruptcy laws in its proper background of hard times, when both creditors and debtors have demanded relief from onerous debt burdens. Federal and state bankruptcy laws have developed inevitably during periods of economic distress. The benefits of these laws were first asked for creditors, then for debtors, and finally, in the period after the Civil War, in the interests of the national welfare.

The author indicates that there have been four prominent developments in the adoption of bankruptcy legislation: 1. Every bankruptcy law has been the product of a financial crisis or an economic depression. 2. Opinion in Congress on the desirability of bankruptcy laws has divided largely on sectional grounds. 3. There has been persistent and continuous opposition to compulsory or involuntary bankruptcy laws. 4. Until it passed upon the Frazier-Lemke Act of 1934, the Supreme Court had sustained every Congressional action arising from the bankruptcy clause of the Constitution.

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Mr. Warren finds that the expansive possibilities of the bankruptcy clause of the Constitution represent one of the most interesting applications of the Constitution. He believes that the Constitution is sufficiently flexible to meet the changing problems of bankruptcy, and that each generation has adequate resources to meet its peculiar financial difficulties. The bankruptcy law has been extended to various industries and to the corporate as well as to other forms of business organization, in spite of bitter opposition.

In his discussion of the *Radford Case*,[1] in which the Supreme Court held the Frazier-Lemke Act of 1934 unconstitutional, Mr. Warren concludes that the extreme provisions of this statute, which granted a time extension to distressed farmers to pay off their debts and mortgages while retaining possession of their property under court control until an adjustment was completed, warranted the decision of the Court. But he thinks there still may be doubt whether every retroactive interference with a creditor's rights is rendered impossible under this decision.

This brief account of the history of American bankruptcy legislation is both interesting and enlightening. An instructive feature of the study is the description of conditions during the early depressions in the words of contemporary writers. Writing in 1824, Henry Clay graphically pictures the prevailing unemployment, stagnation in foreign and domestic trade, the alarming increase in bankruptcies, and the agitation for the printing of paper money. In similar language, Daniel Webster describes conditions after the panic of 1837. Analogous conditions of general gloom and hardship were prevalent in the recurring depressions of the nineteenth century. Yet, after each sinking into depression, the country rose again to heights of prosperity. The author is apparently hopeful that the present depression will eventually give way to better times as past depressions have been routed by the forces of economic recovery.

This thought provoking little volume on bankruptcy is well written and is documented by copious references. Some of the paragraphs are overlong and occasionally the frequent quotations from contemporary speakers and writers are a little tedious, but the study is worthy of wide reading. It supplies much needed information concerning the development of bankruptcy legislation and will be very useful to those who are interested in this subject. The reader will find it difficult to lay down this stimulating discussion of bankruptcy law until he has followed the author through to his final conclusions.

Alfred G. Buehler.†

CASES ON THE LAW OF PARTNERSHIP. By Floyd R. Mechem. Fifth edition by Robert Elden Matthews. Callaghan & Co., Chicago, 1935. Pp. xix, 812. Price: $5.50.

The publication of this volume presumably betokens the belief of the publishers, usually well informed in these matters, that the separate course in partnership still has vitality in our schools. The recent tendency to eliminate the separate partnership course altogether, attempting to acquaint the students with the doctrines of partnership in parallel with, but in relative subordination to, the doctrines of corporation law, is a questionable one. Historically and doctrinally the two fields are so diverse that their simultaneous study, before an independent acquaintance with either has been acquired, may well generate more confusion than light. On the other hand, insofar as the parallel method of presentation seeks to concentrate attention on the basic doctrines only of partnership, it is

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1. Louisville Joint Stock Land Bank v. Radford, 295 U. S. 555 (1935).

preeminently sound. The minutiae may well be omitted from the student's consideration, to be examined by him when, as and if he encounters one or another of them in practice. They have in them no nourishment for soul or mind; they lay no foundation for an understanding of other fields. The time spent on them is badly needed elsewhere. In this view the present work, despite its reduction in bulk from the previous edition, is perhaps still somewhat more voluminous and discursive than need be.

Aside from this welcome reduction in the number of pages and cases, the changes introduced by Professor Matthews are two-fold. The first concerns arrangement. Here we encounter distinct novelty. The entire subject is considered under three heads—(1) the establishment of the partnership relation, (2) considerations governing the use of the partnership form of organization and (3) the application of assets to the claims of creditors. Manifestly, the second head must do service for the bulk of the doctrines of partnership proper, and it does indeed account for more than half of the volume, inclusive of appendices. These "considerations governing the use of the partnership form of organization" are in turn set forth under three heads—(1) risks of the partnership relation, (2) cooperation of personnel and (3) capacity and purpose (supplemented by a six-page essay by Professor Matthews on "considerations of a business nature"). The material on the "risks of the partnership relation" takes up half of the entire volume (excluding the appendices), there being embraced in it such diverse matters, for example, as the imposition of contract liability, admissions, the "risk of dissolution", and business trusts (the latter being brought within the caption as a "device to reduce risk" and characterized as a "variation on the partnership form of organization"). The rules governing the distribution of profits and assets between partners is found curiously enough under the "application of partnership assets to creditors."

This extended recital has been given only to indicate the novel collocations that have resulted from Professor Matthews' attempt to rearrange the familiar subject matter in the sequence in which he deems it desirable to be viewed from the functional approach (though Professor Matthews does not make use of that term). No doubt the resulting arrangement represents the fruits of Professor Matthews' own experience, and is therefore better than it looks; but one can not help wondering whether, in the hands of the ordinary teacher, the student would not gain a more direct grasp of the relevant doctrines by following an arrangement in which "symmetry of conceptual structure", which Professor Matthews finds to have been over-emphasized in the traditional sequence, had played a larger part. Once the basic doctrines are thus mastered, they may well be reviewed for the light they throw on the considerations governing the use of the partnership form of organization.

The other change in Mechem's work introduced by Professor Matthews is that of supplementing almost every case by extended editorial matter, consisting of questions and problems drawn from other cases, discussions of the validity of distinctions or classifications presented in the principal case, considerations of theory and of statutory variation, and the like. In addition, at several points there are extensive sections of text—notably the editor's essay on the relative advantages of the corporation and partnership, as viewed from the standpoint of a practitioner called upon to advise a client about to engage in a business enterprise (pp. 507-512), the material on partnership insurance trusts (pp. 358 ff.), and the discussion of matters to be considered in framing a partnership agreement (p. 101, footnote).

So extensive and so valuable is the aggregate of the material added to the cases thus presented, that one sometimes gets the impression of the tail wagging the dog. In this respect the present volume, like so many of the newer case

books, raises the question of whether it might not be more desirable, in some subjects, to make a complete break with the traditional case book pattern. Why not, instead of confronting the student at the beginning of each new branch of the subject with a case, all introductory material being relegated to footnotes and editorial comments on the cases, have a volume more closely corresponding to the realities of the pedagogic process, with the cases placed in their proper setting of introductory, historical and editorial matter? Would not such a book clarify the thought and save the time of the student without any unbearable sacrifice of his opportunities for induction or synthesis?

The question strikes one with peculiar force in connection with such a subject as partnership. Even when the fourth edition of Mechem's Cases was published in 1924, the Uniform Partnership Act was already in force in a number of states; but, as the preface to the fourth edition makes clear, it represented, not, as does the present edition, a basic revision, but a mere refurbishing of the preceding edition, that of 1905. The present work is thus, in effect, the first thoroughgoing revision of the collection in thirty years. The interval has seen the majority of our population brought under the Uniform Partnership Act, with a fair prospect that its sway will be increasingly extended. Thus a growing majority of the practitioners of this country have become accustomed to seek the answer to a problem of partnership law in the first instance in the statute, with the case material functioning only as a supplement thereto.

For these practitioners "much ancient learning as to partnership is obsolete." [1] This is not to say that a case book, particularly one drawn on the national scale, should necessarily reflect the same subordination of cases to statute. But one wonders whether a treatment which directs the student to the Uniform Act only by way of casual references thereto in case notes (and sometimes not at all), which finds no room for the valuable notes appended to the several sections of the Act by its draftsmen, which presents at some length conflicting opinions on questions which have so largely been set at rest by the Act, whether such a treatment is wholly fair to the student.

In short, Professor Matthews has done an excellent job within the traditional case book framework. The problem is whether that framework should be indefinitely preserved, or should, where appropriate, be discarded in favor of something more suited to present-day requirements.

Lewis Mayers.†

CASES ON THE LAW OF TORTS. By Charles M. Hepburn. Second edition by William M. Hepburn and Archibald Throckmorton. West Publishing Co., St. Paul, 1935. Pp. xxxi, 1071. Price: $6.00.

The lapse of twenty years since the first edition of this work was published furnishes a sufficient reason for the appearance of a revised edition. The law of Torts, as the regulatory force affecting so many sections of the population in such a variety of everyday activities, has been peculiarly sensitive to the social, economic and political developments since 1915. When it is realized that such presently established landmark as *MacPherson v. Buick Motor Co.*[1] and the *Palsgraf* case [2] date from this twenty year period it is clear that the original work has long been obsolete.

1. Andrews, J., in Martin v. Peyton, 246 N. Y. 213, 216, 158 N. E. 77, 78 (1927).

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1. 217 N. Y. 382, 111 N. E. 1050 (1916).
2. Palsgraf v. Long Island Ry., 248 N. Y. 339, 162 N. E. 99 (1928).

Probably the most obvious change in the second edition is a reduction in size by almost 400 pages. This has been accomplished in part by the usual pruning measures such as deleting opinions and restating the facts, but of necessity in such an extensive shrinkage whole topics were at times passed by briefly. Thus twenty-nine pages, comprising nine cases, are devoted to Deceit, and while this represents an increase over the first edition, it hardly constitutes adequate space for the whole field of fraud and deceit. Separate sections on Liability for Negligent Language (consisting solely of *International Products Co. v. Erie R. R.*[3]) and Malicious Falsehood have been inserted, but this does not remedy the deficiency. Thus there is not so much as a footnote reference to the problem of measure of damages in deceit. Doubtless, the editors sought to eliminate precisely such cases as those dealing with Damages, where the relation to Tort law proper is more or less oblique. The editors state as a matter of general policy their desire to eliminate material "more appropriately belonging to other courses in the law school curriculum, notably those in Pleading, Procedure and Equity Jurisprudence."[4] Unfortunately, many of the more restricted phases of these and other subjects are not dealt with in formal courses; in addition, whole subjects (*e. g.* Damages, Bankruptcy and Federal Procedure) are frequently omitted from the law school curriculum, or where offered are elected by only a few. It may well be argued that such legal odds and ends as would be gleaned from a bulkier Torts—or any—case book do not warrant the necessary distraction from the principal subject. Nevertheless, in addition to the fact that appellate opinions too carefully pruned become very unreal, any one who has done any extensive legal research will reflect with much thankfulness upon instances where hours were saved or a point effectively clinched by a scrap of information, an odd case, or a bit of language quoted in a footnote, suddenly recalled from its once irrelevant past.

Apart from the matter of condensation, the general method of presentation and classification of cases remains largely the same in the second edition. Successive chapters deal with Trespasses, Nuisance, Trover and Conversion, Injuries to Family Rights (new), Defamation, the Right of Privacy (new), Causal Relation, Negligence, Acts at Peril, and Torts through Malice. The typical approach in every chapter is to divide each topic into "elements of a prima facie case", followed by "defenses to a prima facie case". The result is a presentation which has the feature of simplicity and should make for easy comprehension by students. In addition, this formula follows the language of the typical judicial opinion. The absence of any analysis of the substance underlying these "elements"—a feature which distinguishes such a case book as that of Professor Bohlen—is so complete as to be deliberate. This reviewer feels too prejudiced by indoctrination to do more than note this lack.

Two features of the classification seem particularly unhappy. As in the prior edition, the present work contains an extensive chapter concerned solely with causal relation, in advance of the chapter on Negligence. The chapter on causal connection contains cases dealing with intentional as well as negligent acts, but for the larger part is concerned with the latter. It is not until after this long (100 page) chapter that the student meets the "elements of a prima facie case in negligence" (in which causal connection is not listed). The problem of the relation between a defendant's act—intentional or unintentional—and the injury which a plaintiff sustains arises directly, of course, in every tort action. Often it is so intertwined with the problem of whether any legally protected interest has been invaded—to use a form of expression which the editors

3. 244 N. Y. 331, 155 N. E. 662 (1927).
4. P. v.

do not employ—that it is almost impossible to extricate, for exhibition purposes, a specimen of "proximate cause" or "legal cause." As a matter of fact, from a strictly functional viewpoint the problem could be dealt with by entirely omitting a separate chapter on legal cause, and instead treating the question as it arises in connection with the invasion of particular interests or the violation of specific duties.[5] Such a plan would likely be so much at odds with current judicial practice as to make its use hazardous. But at the very least, causal relation should not be given the emphasis as a separate problem which naturally results from its antecedent position in the work here under consideration. In addition, the writer has the feeling that to treat of causal connection before developing the duty owing is to put the problem chronologically in reverse of the order of events which are the subject of litigation.

A second quarrel which this reviewer has with the classification employed by the editors is the use (again carried over from the first edition) of the chapter heading "Torts through Malice" and the inclusion under this head of cases dealing with Deceit and what is normally looked upon as labor law material. To place Deceit in this category seems plainly inaccurate. Even the element of *scienter,* which is the only basis for classing the action of deceit as a "tort through malice", has been whittled away from the deliberate and knowing falsehood required by *Derry v. Peek* [6] to the mere "representation of knowledge when knowledge there was none." Indeed, in the opinion of eminent writers the law of deceit, as it has developed in the United States, has become substantially an "enrichment" of the law of warranty.[7] *Hadcock v. Osmer,*[8] which the editors have placed immediately after *Derry v. Peek,* illustrates a phase of this development, but the classification seems, nevertheless, destined to give a distorted picture of the law of fraud and deceit. The same sort of distortion appears likely as a result of listing cases dealing with boycotts, strikes, picketing, *etc.,* under the sub-head "Malicious Use of Property or Influence for the Harm of Another." This is an outright misnomer. The law of trade disputes has certainly come a long way from the time when a combination of workers for collective bargaining was indictable as a common law conspiracy.

Aside from the above feature, the book gives a concise picture of labor law, adequate for a non-specialized course, although some mention might have been made of the effect of *American Steel Foundries v. Tri-City Central Trades Council* [9] on the *Hitchman* case,[10] and of the recent federal anti-"yellow dog contract" statute.[11]

As in most of the recent case books the editors have included a large number of citations to relevant law review articles and notes. In addition, the Restatement of the Law of Torts is not only cited but quoted extensively throughout the volume. In this respect the work has the advantage of being the only case book with full citations to the bound volume sections of the Restatement.

There is a generous sprinkling of recent case material, especially when it is considered that the editors have been compelled to use short cases whenever possible in order to effectuate the condensation noted above. About 9% of the cases date from 1930, and an additional 8% from 1920-1930. There will,

5. This is substantially the method employed in GREEN, THE JUDICIAL PROCESS IN TORT CASES (1931).

6. 14 App. Cas. 337 (1889).

7. See Chatham Furnace Co. v. Moffatt, 147 Mass. 403, 18 N. E. 168 (1888); Bohlen, *Misrepresentation as Deceit, Negligence, or Warranty* (1929) 42 HARV. L. REV. 733; Williston, *Liability for Honest Misrepresentation* (1911) 24 HARV. L. REV. 415.

8. 153 N. Y. 604, 47 N. E. 923 (1897).

9. 257 U. S. 184 (1921).

10. Hitchman Coal & Coke Co. v. Mitchell, 145 U. S. 229 (1917).

11. 47 STAT. 70 (1932), 29 U. S. C. A. §§ 101-115 (Supp. 1935).

of course, always be differences with regard to the inclusion of particular cases. All would agree with the editors in including *Pokora v. Wabash R. R.*[12] and *Exner v. Sherman Power Const. Co.*[13] Several interesting decisions involving liability for emotional disturbances have recently appeared, and *Bowman v. Williams,*[14] in accord with *Hambrook v. Stokes,*[15] is included. Omitted is the more recent case of *Waube v. Warrington,*[16] which takes the opposite view and in an elaborate opinion holds there is no liability for death caused by sight of a horrifying accident. There has been a curious abundance of interesting libel and slander cases in the last few years. The editors have done well to include *Independent Life Ins. Co. v. Rodgers,*[17] which, as brought out by a companion case cited in the footnotes, is almost the only square holding on the problem of whether a judicial officer's absolute privilege to defame is affected by the fact that the defamation is uttered during proceedings as to which he lacks jurisdiction. In this general connection *Nagle v. Nagle,*[18] where defamation by will was held privileged as part of a judicial proceeding, might have been given a footnote. *Layne v. Tribune Co.,*[19] concerning liability for the repetition of a defamatory statement received from a national news service, and *Miles v. Louis Wasmer, Inc.,*[20] and the *Sorensen* case [21] on the nature of defamation by radio broadcasting, are included in the footnotes. None of the recent cases dealing with the liability of a vendor of food could be found.

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12. 292 U. S. 98 (1934).
13. 54 F. (2d) 510 (1931).
14. 164 Md. 397, 165 Atl. 182 (1933).
15. [1925] 1 K. B. 141.
16. 214 Wis. 603, 258 N. W. 497 (1935).
17. 165 Tenn. 447, 55 S. W. (2d) 767 (1933).
18. 316 Pa. 507, 175 Atl. 487 (1934).
19. 108 Fla. 177, 146 So. 234 (1933).
20. 172 Wash. 466, 20 P. (2d) 847 (1933).
21. Sorensen v. Wood and KFAB Broadcasting Co., 123 Neb. 348, 243 N. W. 82 (1932).

BOOK NOTES

INTERPRETATIONS: 1933-35. By Walter Lippmann. Edited by Allen Nevins. The Macmillan Co., New York, 1936. Pp. 385. Price: $2.50.

Alert lawyers have always found it profitable to maintain an awareness of current political and economic, as well as legal, problems—if only for the reason that in many cases the latter cannot be dealt with competently by those ignorant of what is going on in the world. In this connection Mr. Lippmann's book, consisting of excerpts from his syndicated articles over a period of two and a half years, makes a definite contribution. His lucid and interesting style does much toward clarifying the vexatious and interrelated problems of currency manipulation, banking structure, and credit control. Other problems discussed are more closely related in some instances to the legal field. Mr. Lippmann advocates strong unionization of labor and elimination of the grosser abuses in business practice, but he decries the Wagner bill and the late N. R. A. as involving administrative bites of much more than could adequately be chewed. While no A. A. A. enthusiast, he deplores a lower court holding that the federal government is powerless to regulate the vital national problem of agriculture. Speaking elsewhere of constitutional law, he concludes that the Supreme Court's true function is "to make sure that it is Philip sober and not Philip drunk who has been legislating." This is interesting but scarcely solves the controversial question of judicial review. Many more matters are commented upon: the co-existing and conflicting needs for a balanced budget and adequate relief; regulation of holding companies; mailed fist tactics in Germany, Italy, and Russia; American political strategy; the World Court; free speech; Huey Long; the Townsend plan; cinema morals. Not the least interesting feature is the metamorphosis of the author himself. Mr. Lippmann appears on the stage first as a forceful advocate of great executive power in the dark days of the 1933 crisis; by August, 1935, he disappears into the wings clad in the garb of conservatism, announcing the end of the emergency and demanding that the President reveal whether he intends to push on to a "planned collectivism" or to permit a return to a "free economy". This may be compared with his position in the summer of 1934, when he made a suggestion which readers may well applaud—"It might help us all to think more clearly if we decided to call it a day on the practice of trying to describe what is going on in Washington by giving it the name of something that is going on in Moscow or Rome."

L. M. G.

ADMINISTRATIVE LABOR LEGISLATION. By John B. Andrews. Harper & Bros., New York, 1936. Pp. 231. Price: $2.50.

This book, by an author whose name has long been associated with the field of labor legislation, is a study of administrative labor law in action—the functions of the boards, bureaus, and officials promulgating legally effective rules and decisions relative to labor conditions. From the nature of the subject and the comparatively small size of the book, it is apparent that no detailed presentation of the material is attempted. A sketch, rather, is presented of the kinds of organization and varieties of function which characterize this type of governmental activity throughout this country. Although the bulk of the book concerns itself with a presentation of the facts of this activity, a number of

criticisms and recommendations for change are included. The author deplores the tendency in many states to diffuse administrative authority among various departments of the government, resulting in conflicts of jurisdiction and lack of coordination so essential to a coherent, effective program. The prevalent lax methods of keeping records and the almost total absence of adequate indexes of rulings, codes, and orders are justly made the object of sharp criticism. Appended is a suggested draft of a statute delegating administrative authority in a specific field of labor regulation.

A chapter is devoted to the discussion of constitutional questions, including the prime problem of the validity of delegated legislative power. The question of just how specific the legislature must be in prescribing standards and policies, in order to escape the condemnation of the courts, is one which is so difficult and important [1] as to have warranted a more detailed treatment than the author gives.

Mr. Andrews does not make use of that helpful division of administrative action into functions which may be called "legislative" (the formulation of rules to cover general, abstract situations), and "judicial" (the finding of facts and the application of rules and standards in specific cases). It is difficult to determine, indeed, whether the book purports to treat at all the latter function. One of the most important instances of this type of administrative activity, that of the National Labor Relations Board created under the Wagner-Connery Act, is not even mentioned.[2] It seems strange that a recent book dealing with administrative labor legislation should, without explanation, omit discussion of this statute and the work of the Board under it.

Bernard Eskin.†

NEW BANKRUPTCY HANDBOOK. By M. S. Carmichael, Walter J. Knabe, and J. C. Fleming. Kreider-Thompson & Co., Montgomery, 1935. Pp. viii, 439. Price: $5.00.

As the title indicates, this book is a collection of bankruptcy materials. It contains the text of the Bankruptcy Act, the General Orders in Bankruptcy, the Official Bankruptcy Forms and a collection of unofficial forms to be used by bankrupts, creditors, referees and trustees, and extracts from the Revenue Acts relating to the duties and liabilities of trustees and receivers in regard to taxes due the United States.

After each section of the Bankruptcy Act, the authors make comments on such matters as the importance of the section and the purpose it serves, how it works in practice, and how it might be improved. For the most part, these comments are not legal in nature, but in many instances they present sidelights which may be of practical value to attorneys, referees, trustees and creditors. Reference is also made after sections of the Act to the General Orders that pertain to them and to the forms that are to be used in connection with them. Comments on the General Orders refer to the related procedural sections of the Act.

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1. Recent decisions of the Supreme Court, demolishing important New Deal legislation, were based partly or wholly on the ground of improper delegation. Panama Refining Co. v. Ryan, 293 U. S. 388 (1935); Schechter Poultry Corp. v. United States, 295 U. S. 495 (1935). The new National Labor Relations Act has been attacked on this ground.

2. P. L. No. 198, 74th Cong., 1st Sess. (1935). For an excellent discussion of the act and the functions of the Board see Note (1935) 35 COL. L. REV. 1098; and see Mason, *The Limits as to Effective Federal Control of the Employer-Employee Relationship* (1936) 84 U. OF PA. L. REV. 277.

The new "debtor relief" sections of the Act (§§ 74-80) are given special treatment. Section 75 is summarized, and a sample case and a reported opinion are presented to show the procedure used in connection with it. Section 77B is fully outlined, and an article is presented which discusses the historical necessity for the section, its constitutionality, and some of the provisions which promise to be of the greatest importance. The 108 unofficial forms collected treat fully those situations not covered by the official forms and contain some of the more important forms relating to Section 77B.

A handy, quick reference manual such as this, should be an invaluable aid to all those who are concerned with bankruptcy matters.

Leonard Helfenstein.†

WIGMORE'S CODE OF THE RULES OF EVIDENCE IN TRIALS AT LAW (2d edition). By John Henry Wigmore. Little, Brown & Co., Boston, 1935. Pp. lxxv, 621.

While a study of the rules of evidence is not such as to elicit a great deal of enthusiasm from either the law student or the practicing attorney, it would be difficult to over-emphasize the importance of a working knowledge of those rules. In the past it was the custom to acquire this knowledge by the painful method of trial and error—and a perusal of any volume of appellate reports with its record of reversal after reversal on procedural grounds bears witness to the expense of this method. And even today the course in evidence as presented in our best law schools leaves the student with only a vague knowledge of a mass of apparently unrelated rules. For both the practicing attorney, struggling with the trial and error method, and the law student, slightly dazed with the vastness of the field he is supposed to master, Professor Wigmore's Code will prove a boon. The lawyer who carefully consults the Code concerning evidentiary problems likely to arise on trial will find himself able to deal with them as they present themselves in a much more authoritative manner. And the attorney who devotes himself or who plans to devote himself exclusively to trial work can by interleafing and annotating his copy of the Code make himself that most enviable person—a master of the rules of evidence. On the other hand, the student will find the Code an easily accessible and valuable source of information which not only sets out the majority and minority views on the various rules of evidence but also states suggested improvements which, if learned and remembered, will delight the heart of any professor of the law of evidence.

J. E. B.

THE CONSTITUTION IN SCHOOL AND COLLEGE. By H. Arnold Bennett. G. P. Putnam's Sons, New York, 1935. Pp. xiii, 315. Price: $3.50.

At a time when increasing droves of those who have are scurrying under the wing of the Constitution to be shielded from legislative amelioration of the lot of those who have not, an understanding of the true function of the Constitution as an instrument of government becomes vastly important. It seems clear that such an understanding may be effectively achieved on a broad scale only through an intelligently guided educational program in our schools and colleges. Thus a more opportune occasion for the author's analysis hardly

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could have been found. Salient points driven home by his treatment of the subject include the important observations that our Constitution has long been reverenced beyond reason, that it has been ineffectively presented to young students throughout our entire history, that legislative attempts to remedy this situation have conspicuously failed, and that in present day instruction patriotic bombast and even sheer drivel are oft at an unwonted premium. After reaching these conclusions, the author suggests a more realistic approach which, in all probability, has already been employed in our better colleges addressing themselves to a study of the Constitution. An unfortunate tendency to bog down for protracted intervals in minute analyses of text book and statutory material is found in one or two portions of the treatment. If this be necessary in the name of scholarship, it none the less might have been made a less prominent feature of the work by the expedient, difficult perhaps, of thrusting much of the material into footnotes.

S. S. G., Jr.