of the decisions to indicate the doctrines most generally relied upon by the courts in determining the question of patentable invention.

After a general discussion of invention in the sense of *patentable invention*, there are included in the book two extremely valuable compilations of decisions; the first on "What is invention?" and the second on "What is not invention?" The arrangement is such as to make the book extremely handy for use in court and to make readily available to the practitioner those decisions which, if they do not settle his point, at least readily indicate the direction for further study and investigation of the point involved.

In a single volume as short as the one under discussion, it is obviously possible only to give the leading cases and to indicate in general the lines of reasoning and the possibilities of further research. This Mr. Toulmin has done very effectively and his book constitutes a useful addition to the library of anyone dealing with patent matters.

LESLIE M. PARKER*

* Member of the Illinois Bar.

BOOK NOTES

CONSTITUTIONAL LAW OF THE UNITED STATES. By Hugh Evander Willis. Bloomington, Ind.: The Principia Press, 1936. Pp. viii, 1198.

Professor Willis' opening chapter, "Makers, Periods and Doctrines," is no less instructive in context than inviting in title. It contains not only descriptive survey of the drafting of the Constitution, including a critical estimate of its makers and molders, but also an accurate clue to the author's philosophy of the Constitution. Professor Willis is a liberal; perhaps a "New Dealer." His impatience with those who view with alarm anything new, anything that treats of the Constitution as a changeable, growing document is expressed at the outset; his disappointment with recent trends in Supreme Court decisions is expressed at the end. The sincerity with which Professor Willis espouses the cause of liberalism has led him to abandon that intellectual and emotional objectivity which he expects of the Supreme Court justices; and his failure to remain aloof and detached has led him to assume the role of prophet—with most unprofitable consequences. Legislation he considered constitutional was invalidated by the Supreme Court; decisions he expected to be overruled were reaffirmed; tendencies he thought would continue were checked. Thus, he regarded the appointment of Justice Roberts to the Supreme Court as adding to the progressive elements on the Bench; a footnote, inserted after the A.A.A. decision,[1] reflects the author's trepidations that the Justice has "permanently gone over to the side of legalism and reaction."[2] The author condemned the decision in the *Adkins* case[3] and predicted its early overruling.[4] And the Supreme Court, which he had thought would uphold President Roosevelt's ambitious program of social planning—either by refusing any longer to apply the due process clauses to matters of substance or by adopting precepts and precedents which would sustain New Deal legislation—has denied that hope in recent decisions.[5]

[1] United States v. Butler, 56 Sup. Ct. 312 (1936).

[2] P. 926. [3] Adkins v. Children's Hosp., 261 U.S. 525 (1923).

[4] Pp. 735–736. *Cf.* Morehead v. People *ex rel.* Tipaldo, 56 Sup. Ct. 748 (1936), petition for rehearing denied Oct. 12, 1936.

[5] See p. 926, n. 214, and also Carter v. Carter Coal Co., 56 Sup. Ct. 371 (1936) (Guffey-Snyder Coal Act).

The failure of Professor Willis to remain objective does not, however, detract from the value of the volume. The material is well-organized and accurate and the defects in the author's style, which inclines towards prolixity, are not serious. The objective of the author is to present a *functional* approach to problems in constitutional law.[6] Though the author's orientation is liberal, his approach is essentially orthodox, for he has simply followed the pattern of the Constitution, treating each significant provision in the light of the societal interests to be protected and promoted. In discussing the constitutional framework, the powers of the state and federal governments and the limitations on those powers, the author has chosen selectively from the works of others and has contributed his own comments and observations which, except perhaps for their emphasis on socio-economic considerations, are fundamentally no different from those in any other text.

TROVER AND CONVERSION—AN ESSAY. By Edward H. Warren. Cambridge, Mass.: Harvard Law Review Ass'n, 1936. Pp. 110. Paper Cover.

A critical evaluation of this essay must start from the assumption that the author's purpose was merely to introduce the first year student into this no-man's land so frequently neglected by torts and property teachers. Discussion of the most important cases in this field is undertaken in an elementary way calculated to give the student an appreciation of the problems involved in each individual case, but this treatment may well leave him in doubt where in the private law the institution of conversion properly belongs. Emphasis is correctly placed on the peculiar measure of damages which puts the losing defendant into the position of an involuntary purchaser. Is it not rather strange, however, that the notion of fault otherwise so important in the law of torts failed to makes its importance felt in the action of conversion? The explanation may be historical— this is one more case where the old forms of action have played a trick on the substantive law and made a property claim appear in the dress of a tort action, having an influence on the law of conversion similar to the influence of the action of assumpsit on the law of contracts—but the author does not discuss this circumstance.

Parting with this general criticism and looking at the discussion of individual cases, the treatment of *Hollins v. Fowler* must be particularly welcomed. The author has correctly pointed out that Blackburn's opinion introducing the well known finder test is actually a minority opinion, although followed in many jurisdictions. In fact, the author's exhaustive discussion of all the more important conversion cases makes it particularly regrettable that he did not undertake to tie up these cases with an adequate inquiry into the nature and function of the law of conversion.

ROGER B. TANEY. By Carl Brent Swisher. New York: The Macmillan Company, 1935. Pp. 608. $5.00.

Mr Swisher's exceedingly friendly description of Chief Justice Taney's life gives, nevertheless, an impression of clenched-teeth objectivity. For instance, no attempt is made to disguise Taney's talents as a diplomatist. Admittedly his letters to Jackson reveal sycophantic manoeuvering, but this is excused as a political necessity. Similarly, it is clear that his rivalry with McLane may have influenced his judicial decisions.

In his fascinating description of the struggle against the Bank of the United States,

[6] Preface, p. iv.