

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 make 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 manoeuvring, 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.

however, Mr. Swisher compels the reader to a view of Taney as a sort of guardian angel obliterating an evil spirit. The tremendous political power of the Bank was gained in three ways, each made possible by its control of Government money: (1) It gained general approval by expanding its loans enormously, boosting industrial activity; (2) It secured powerful friendships by thinly-disguised bribes in the form of generous loans and even fictional settlements of debts; (3) When the Administration did anything unfavorable to the Bank, it hastened to restrict credit and recall loans, putting the blame for consequent business disasters upon the Administration. Too strong for any individual business man to dare displease, the Bank is portrayed as the embryo of a commercial dictator.

The book is, however, essentially a personal history. The social system in which Taney and his fathers resided is primarily important. Throughout even the most technical discussions there is an undercurrent of social description by which the reader is again and again reminded that all this happened in the early nineteenth century. The extraordinary difficulties and inadequacies of education, both lay and legal, the vicious tactics of political campaigns beside which our present campaigns pale into an exchange of pleasantries, the constant apprehension of disaster to the infant republic—all these must be considered in any real evaluation of what Taney did. Rather friendly but far from gregarious, affectionate but apparently not at all demonstrative, he seems to have lived in a mental world apart from his friends and family, a kindly but solitary man. The growth of the slave problem and its increasing pressure on Taney are described with power, the great constitutional law cases are (rather startlingly) made to live, and the personages of the day, Webster, Calhoun, Van Buren, Jackson, become human beings. Mr. Swisher has presented, for the legalist, a human picture of constitutional law and, for the layman, a thoroughly interesting story.

LEGAL PROTECTION OF GOODWILL. By Frank S. Moore. New York: The Ronald Press, 1936. Pp. 218. \$3.50.

For the lawyer: a kaleidoscope of the fundamentals underlying the law protecting goodwill—with emphasis upon trade-marks. For the layman: a warning that legal pitfalls lie in the path of his acquiring the right to the exclusive use of a trade-mark, with simple advice on how to avoid them. The style is breezy and readable, the treatment not profound. The book is written to give general practitioners, business men, accountants, and law and business colleges “an intelligent understanding of the nature of commercial goodwill and the general principles of law which govern it.” In the main it succeeds. The advice given concerning the necessity of preserving evidence as to user is forcefully put, but occasionally the book suffers from those weaknesses inevitable when “the Law” is expounded to laymen. Because the book is confessedly elementary, the lawyer would do well to use it only as a starting point; the layman would do well not to take its statements at face value.

BOOKS RECEIVED

ADMINISTRATION OF WORKMEN'S COMPENSATION. By Walter F. Dodd. New York: The Commonwealth Fund, 1936. Pp. xviii, 845. \$4.50.

CASES ON EQUITY. By Henry L. McClintock, St. Paul: West Publishing Co., 1936. Pp. 1263. \$6.00.