

Roughly, the book is divided into two parts, the first discussing the act and the second setting forth in general terms the concept of interstate commerce. To call the first section a discussion of the act is to be charitable; it is little more than a restatement. For example, the portion on "computation of overtime"² contains not one word as to the meaning of the phrase, "regular rate." Nowhere is the perplexed employer advised of the meaning or enforceability of section eighteen prohibiting the reduction of wages which are in excess of the minimums prescribed by the statute. Can an employer, whose employees work regular overtime hours, reduce the hourly rate so as to continue the weekly wages theretofore paid? Concerning employees whose overtime work is irregular, may they be paid regular wages? What about the possibility of inconsistent court rulings where more than one of the remedies provided by the act is pursued? These are only a few of the many problems ignored in wholesale fashion.

The second section of the book, occupying twenty pages, contains a rather surprisingly good statement of the evolution of the commerce concept. Its brevity and superficiality is excusable in a book intended for the layman. On the other hand, it is objectionable because, since it deals exclusively with the power of Congress, it is more or less irrelevant. Questions of interstate commerce under this statute will depend, not on considerations as to legislative power, but on the determination of the extent to which Congress has utilized that power. Many problems arise: What is the effect of making the act applicable to employees rather than employers? What type of employee is engaged in interstate commerce? How far will the courts carry the interpretation of the words "process or occupation necessary to the production" of goods for commerce?³ The reader looks in vain for advice or discussion.

The remaining one hundred and fifty pages are given over to a reproduction of the act and certain rules and regulations, together with a long list of citations to National Labor Relations Board cases, categorized according to industry. This last, apparently, is based on the dubious hypothesis—never defended—that the interpretation of the National Labor Relations Act⁴ will aid in the interpretation of the statute which is the subject of the book.

In this reviewer's opinion it would be difficult to write a book less fitted to advise anybody "how to operate under the Wage and Hour Law."

ROBERT LEVIN*

The Rise of a New Federalism. By Jane Perry Clark. New York: Columbia University Press, 1938. Pp. xvii, 347. \$3.50.

This book has been needed for a long time. It describes a phenomenon of American government that has had much less attention than it deserves, the increasing practice of cooperation between two or more governments on common problems, and more particularly the cooperation between the states and the United States. In fact while constitutional lawyers have been debating and judges of appellate courts have been deciding on the scope and limits of state and national authority, the governments concerned have in very many cases discovered that their interests and purposes were

² P. 28.

³ Sec. 3 (j).

⁴ 49 Stat. 449 (1935); 29 U.S.C.A. sec. 150.

* Member of the Illinois Bar.

common, and have acted upon that discovery. The practice in some fields is very old, in others recent.

Miss Clark has undertaken a description of the subjects and techniques of this cooperation, and of the problems that it raises. She has discovered a surprising number of examples. They run all the way from the physical protection of the person of the President, through agricultural extension work, road building, the selective draft, crime prevention, and relief, to the enactment and administration of state unemployment compensation laws. The techniques are as varied as the subject matter. In some fields official persons simply confer occasionally and plan their work in parallel; in others governments share personnel and costs under elaborate contractual arrangements; in others Congress authorizes grants-in-aid for education, highways, public buildings or relief, and fixes the terms on which the funds will be forthcoming. In another field and for another purpose the Congress may forbid the interstate movement of named articles into states that do not want them,¹ or it may grant relief from federal taxation to taxpayers in states which pass and keep in force estate taxes or unemployment compensation laws.²

To attempt to put this sprawling and diverse experience within the covers of one book is an ambitious undertaking. I think Miss Clark has done it with skill, diligence and real success. No doubt specialists in narrow fields will make criticisms of detail. No doubt also many arrangements here described will not long remain as stated, for practice sometimes changes rapidly, as every relief administrator knows. No doubt, also, descriptions of many and diverse technical arrangements seldom make exhilarating reading. But the job needed to be done, it is done well, and anyone who wants to know what cooperative arrangements have been tried, what problems they have raised, and how they have worked out will find here at least a long beginning of an answer.

Cooperation between the nation and the states is an increasing fact in the United States, and gives every sign of being permanent in many fields. Admittedly it may decrease the importance of drawing a sharp line between state and federal powers. But lawyers should not be disturbed by this development. They have known for a long time that state courts must enforce the Constitution and the laws of Congress, and that federal courts must very often decide cases by state law. True enough, we have usually spoken of these matters as principles of judicial duty under the Constitution rather than as examples of cooperation, but they reinforce the point that the governments of state and nation are not foreign to each other, but two parts of a federal scheme. After all, the voters who choose Congressmen and Senators are the same as those who in each state elect the members of "the most numerous branch of the State legislature."³ It is not strange that two governments chosen by the same people to operate in the same territory, and with interwoven functions, should try to get along together. How and with what success they have done and are doing so is worth investigation.

CHARLES BUNN*

¹ Clark Distilling Co. v. Western Maryland Rr. Co., 242 U.S. 311 (1917); Kentucky Whip & Collar Co. v. Illinois Central Rr. Co., 299 U.S. 334 (1937).

² Florida v. Mellon, 273 U.S. 12 (1927); Steward Machine Co. v. Davis, 301 U.S. 548 (1937).

³ U.S. Cont. art. I, § 2 (1); 17th Amend. (1).

* Professor of Law, University of Wisconsin Law School.