

machinery is not and cannot be adapted to the new problem of administration presented by the system of workmen's compensation. The judicial function is primarily that of settling controversies between parties equal before the law, and in compensation the principle of liability without fault of itself assumes an inequality between the parties. Moreover, workmen's compensation acts proceed upon an assumption of equality of treatment of similar injuries, whether a claim be contested or uncontested, and no machinery now exists in this country for the correlation of the activities of various courts so as to produce such equality.

The uncontested case which forms the great bulk of compensation cases, is discussed and studied from the standpoint of promptness of the first payment, method of handling by commissions and the investigations by the commissions. The importance of the uncontested case is shown by the fact that in Illinois in one year there were 56,100 compensable industrial injuries of which 53,300 involved no contest; in Massachusetts, 37,000 of the 41,000 compensable injuries were uncontested; and in Pennsylvania, 80,000 out of 85,000 were uncontested.

The contested case is reported from the viewpoint of the administrative determination of the disputed claims, the parties to the contest, the volume of the contest and the ground of contest, the method of procedure and the application of evidence and presumptions. Particular studies of such compensation hearings in Wisconsin, Massachusetts, New York, Illinois and Ohio are reported in detail. The expert witness and the lawyer come in for their share of blame and praise. The court review of compensation awards, medical problems involved, the security for the payment of compensation, the measure of compensation, the relationship of workmen's compensation to accident prevention and the advisability of lump sum settlements are treated excellently.

After a review of the book we agree with the author when he states that much remains to be done toward bettering the content and administration of compensation laws. It is true, however, that not only have workmen's compensation laws attained their attempted objective, but have pointed a way for the determination of disputes in other fields.

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STORM OVER THE CONSTITUTION. By Irving Brant. Indianapolis: The Bobbs-Merrill Co. 1936. Pp. 294.

Let no academic pundit recoil from this swift-moving volume because the title parodies a famous film, because the introduction is by the Secretary of Agriculture, because the year 1936 is an election year. Whatever value the book has for partisan propaganda (and I do not propose to discuss that important aspect of the subject), it can be hailed with lively appreciation by the specialists on constitutional interpretation.

Brant has extended and generalized an account of the relation between legal form and political fact which previous scholars and publicists have discerned for limited periods. The form is the steady growth of federal power since 1787; the fact is the shifting relationship of economic groups to this development. Herbert Croly saw in Theodore Roosevelt the turning of the masses to federal power as a weapon against a plutocracy that had outgrown state control. Charles A. Beard saw the beginnings of this process in the administration of Jefferson. Brant now sustains the thesis that "when the men of property took charge of the new government in 1789, they decided every disputed issue in favor of an expanding federalism. Today their descendants look upon federal power with fear and loathing."

Brant undertakes to discredit the traditional account of the Constitutional Convention. Thus he dismisses as a fallacy the theory that a small-state group stood for a weak federal government, and a large-state group stood for a strong federal government. "Each was for a strong government if it was to control the government itself." He undertakes to show that after the great compromise over representation, the Convention settled almost every choice between strengthening and weakening the government by strengthening it. Contrary decisions were usually based on fear of military usurpation or apprehension that the granting of too much power would cause the Constitution to be rejected by the people.

The solidarity of the small states in the Convention is explained by the effect of public land sales upon taxes, land values, and the shift of population. The use of implied power rather than express power showed that the framers were more nationalistic than the people at large. "They wrote warily, lest their work be rejected."

There is a vigorous criticism of the commonly accepted version of Luther Martin's behavior, and an emphatic warning against the contribution to myth building made by both Martin and Madison.

For polemical purposes, Brant's book "shifts the burden of proof from those who assert a nationalistic purpose in the framing of the Constitution to those who deny that purpose." "Not state sovereignty, but state and sectional power in national affairs was in the minds of these men (the framers)."

The chapters which interpret subsequent developments are less novel than the chapters which concentrate on the Convention. The best is "Nine Men in Black Robes" which categorically declares that when the Senate was captured for the people the Supreme Court began the vigorous invasion of the legislative field, transforming itself into "a veritable third chamber of the legislative branch" which defends plutocracy.

What to do about it? Mr. Brant sees no other alternative than popular action to elect the officials who will appoint a permanent liberal majority on the Court. With the ways and means he is not concerned. Nor does he hazard any guess about the defensive measures which would be taken by a beleaguered plutocracy were the liberals to win elections. Although

the term "plutocracy" is used by Brant to name the enemy of the "people," he refrains from using a consistent class terminology to refer to the "people". This is a slick piece of over-generalization which no doubt exhibits his skill as a polemicist; but here, at least, propagandistic considerations have interfered with the consistency of the analysis.

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THE CONSTITUTION AND THE MEN WHO MADE IT. By Hastings Lyon. Boston: Houghton Mifflin Co. 1936. Pp. 314.

This book should be classed with "Fiction in Lighter Vein" rather than with serious history. Its author trips lightly over the surface of things, gliding *over* serious difficulties and into serious errors. On the last page of the book, in a sketch of Madison's career after his labors in the Constitutional Convention ended, our author says:

Then Madison served as Secretary of State under Jefferson, and became President. In the race of the hare and tortoise the persistent plodder out-distanced the brilliant Hamilton, who nearly four years earlier died from a bullet shot by the man who introduced Madison to Dolly Todd. In Washington the redcoats invaded the White House, where the table was laid for dinner, and Dolly scampered with a sweep of silverware into her reticule. Office-holding ended, and for nearly twenty years Madison lived in a busy retirement at Montpelier, where he died June 28, 1836.

This passage is typical: a hankering after unimportant details, supposed to be *piquant* or *picturesque*, and a raciness of style which subjects the reader to a considerable strain in trying to ward off misinformation. Only those readers who know more than the author apparently does can be sure to go through the experience unscathed. Unless the reader knew better beforehand, he would undoubtedly gain the impression that Madison and Hamilton were specially engaged in a race for the Presidency; that Madison's success and Hamilton's failure in that race were due to different personal characteristics or gifts; and that Madison's career as President of the United States was terminated by the British redcoats.

At that the biographical portions of the book are the best. Our author *did* gather together a miscellaneous assortment of biographical detail which does help to form a composite picture of the Constitutional Convention. That much cannot be said for those portions of the book which deal with the contents of the Constitution or the manner in which it was adopted. Surely, we are told nothing to the purpose when we are told that Congress consists of two houses in one of which representation is according to population while in the other the States have equal representation. And even when we are told, as the author attempts to prove at great length, that when the Framers voted for representation in the lower house according to population they really had "wealth" in mind rather than "people", it tells us something about the men who framed the Constitution rather than about the Constitu-