

for the attempt to make insurance lawyers in sixty hours of class discussion is not quite so clear. The present reviewer has been shown through several fascinating factories by very competent people, but he did not acquire any mastery of the processes which were carried on therein. There are still uses for Wambaugh's long historical perspective¹ and Vance's orderly sequence of thought.² The imparting of skill, however, is the problem of the teacher, not the casebook, and everyone will choose the means which serve him best. Professor Goble's compilation has long been needed. Its faults, if they are faults, are not those of the compiler but of the modern law which he depicts.

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PROBLEMS OF THE GERMAN-AMERICAN CLAIMS COMMISSION. By Wilhelm Kiesselbach. Translated by Edwin H. Zeydel. Washington: Carnegie Endowment for International Peace. 1931. Pp. v, 135. \$1.50.

This important analysis and commentary by the German judge of the Mixed Claims Commission, United States and Germany, upon the legal questions before that Commission is a work of permanent value. Under the economic and reparation clauses of the Treaty of Versailles, as adopted by the United States, the Commission passed upon the claims of American citizens against Germany arising out of the war, whether the losses were occasioned by violations of international law or not. The jurisdiction of the Commission extended to claims for losses occurring after July 31, 1914, on account of deaths and personal injuries, hull and cargo losses, property losses in occupied territory and in Germany, American interests in German estates, and debts owed to American citizens by German nationals, including bank deposits and bonds. During the period of "neutrality"—down to April 6, 1917—it was necessary to show that a German agent caused the loss; during the period of the war, it was not necessary to identify the causative agent, so that Germany was held liable, for example, for losses occasioned by the collision of an American ship with a French cruiser outside Havana harbor and for losses suffered by owners of American factories in Germany through bombs dropped by Allied aviators. On the mark debts, Germany was held liable for valorization of the mark at sixteen cents per mark. American insurers of British goods lawfully destroyed according to the rules of war received compensation for their underwritten risks. The German commissioner is correct when he calls attention to the fact that the claims arising out of violations of international law were comparatively few.

Within a period of about seven years, the Commission dealt with some twenty thousand claims, a feat possible only through the expeditious method of making certain administrative decisions on questions of principle and then relying on the two agents to cooperate in settling, subject to Commission approval, the many claims falling within the respective principles. Where agreement proved impossible, the Commission decided. Of the approximately one and a half billion dollars of claims advanced, some one hundred eighteen million dollars in principal amount were allowed to private claimants, and

¹ CASES ON INSURANCE (1902).

² CASES ON THE LAW OF INSURANCE (2d ed. 1931)

some forty-two millions to the United States Government. The author pays tribute to Umpire Parker's rigid impartiality.

Dr. Kiesselbach deals with the arguments of the respective agents, and the views of the two national commissioners and of the umpire, and presents a critique of each major issue. His own intimate connection with the arbitration lends peculiar value to his views.

Although the allowability of the claims depended on the treaty, as interpreted, without regard to international law, it was nevertheless often necessary to fall back upon international law for guidance. For this reason some of Judge Parker's opinions will probably retain permanent interest. The many questions connected with the nationality of claims, which had to be American in origin and at the time of presentation (considered to be November 11, 1921) depended mainly on the established law of international claims. In the chapter on neutrality claims, Dr. Kiesselbach expresses his regret that Judge Parker should have concluded that even in the period of neutrality, Germany was liable for all losses occasioned by German "acts," even though the "acts" were lawful. This conclusion is open to question, and it appears not to have been adopted by the Mixed Arbitral Tribunals functioning in Europe. It is unfortunate that the reasons for this decision of the Commission were not published, as the author says, "with the consent of both Governments." The measure of damages adopted in the Lusitania cases, including life expectancy of the deceased and of the surviving claimant, and the loss of support sustained, reduced claims for fifty million dollars to about two and a half million. The claims of life insurance companies for "premature" liability for war deaths were rejected. So were the large claims for war risk premiums paid. The alleged impairment of the rights of contract herein advanced was not deemed an injury to "property." The claims of the subrogated American marine underwriters, on the other hand, were allowed, though most of them derived net profits from the business and though a considerable part of the property insured was not American. The inclusion of these sums, accounting for a large share of the total awards, nearly brought about the defeat of the Settlement of War Claims Act in Congress and has led to a movement, both in foreign offices and among commentators, to bar the claims of underwriters from consideration before claims commissions. This was officially proposed by the British Government at the Hague Codification Conference, 1930. The original claimant should alone be deemed entitled to appear, his relations with the underwriter being a matter of private contract. The concept of American "property" losses disclosed differences between the German and American points of view. Dr. Kiesselbach believes that the American conception, which resulted in the inclusion of losses sustained by American stockholders in foreign corporations, goes too far. He would confine redress to loss inflicted upon directly-owned American physical property. In either case, the result is artificial; but the treaty of Berlin, adopting the Knox-Porter Resolution, probably supported in this case the broader American view, except with respect to American nationals who suffered loss of support from injuries to foreigners. That view has little, if any, foundation in law or precedent, and opens hazardous vistas. On the question of corporation claims, though no formal decision was rendered, the umpire indicated his approval of the view that the nationality of the stockholders was an important factor and that an American

corporation with a substantial foreign stock interest could recover only to the extent of the American interest. Claims were settled on this basis without open reference to the principle; but the distribution was made to the corporation as a whole, and not, as contemplated in the Mexican-American Commission of 1926, to the American stockholders only.

The imposition in a treaty of liability beyond that which international law justifies is, implicitly, an attack on the whole system of international law, for it lends support to the view that force, rather than law, determines international relations even in their legal aspects. For that reason, the Treaty of Versailles, which departed from many fundamental rules and from *mores* built up painfully through the centuries, such as the immunity of enemy private property from confiscation, makes a serious limitation of armaments, notwithstanding treaty commitments, improbable, and to that extent portends future war. What large-scale war is likely to do to the financial and economic organization of present society requires little commentary. When man loses his capacity for self-restraint, the distinguishing mark of civilization over barbarism, the outlook is not hopeful. Dr. Kiesselbach's work, while primarily legal and informative, invites thought on the future of international law and relations.

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ESSAYS ON RESEARCH IN THE SOCIAL SCIENCES. Washington: The Brookings Institution. 1931. Pp. 194. \$2.00.

A volume of essays is not unlike vaudeville. Author gives place to author with such bewildering rapidity that one is forgotten as the next performs his little act. Variety demands syncopation in language as well as in ideas. This slim volume, of necessity, portrays such qualities. Bred of a series of lectures given to the students and staff of the Brookings Institution, it seeks to set forth in its brief compass some of the aims and methods of the social sciences. The performers are, indeed, a galaxy of stars — Swann, Bentley, Ogburn, Schlesinger, Beard, Cook, and others. Some, it must be confessed, have worn their honors quite lightly, but others seriously and in their best vein.

In the main the essays are informative rather than stimulating. Most authors survey their own fields, discoursing upon boundaries, materials, aims, and the consequent methods that have been evolved. The hope is that through such a symposium readers or audience may phrase better answers to the puzzling questions of the nature of science and the applicability of its methods in social study. The first issue is, after all, fundamental, and to that Mr. Swann, whose task it is to treat of it, gives no conclusive answer. He suggests its essence as being a readiness to allow hypotheses to crumble under the impact of facts. As such any discipline can be equally scientific with any other. Such a description fits, however, both possibilities in the social sciences and actualities in the physical sciences far better than that of Professor Ogburn. His conception of science as "the discovery of new and enduring knowledge"¹ would dispose of most science as unscientific.

¹ P. 164. Compare Dewey's characterization of the scientific aims of Charles Sanders Peirce: "It is a fallacy, he says, to suppose that science signifies knowl-