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THE TIDELANDS OIL CONTROVERSY - A
LEGAL AND HISTORICAL ANALYSIS, by
Ernest R. Bartley. University of Texas Press, Austin,
1953. Pp. x, 312. \$5.00.

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Land Tenure in the Southwest (p. 385 et seq. and p. 603, Table 95) which was published two years before Mangum's book by the University of North Carolina Press and covers some of the southeastern states. Sociologists however are quite aware of the fact that many problems in tenancy relations arise from the general changes in the structure of social relations in the South and that the trend goes in the direction desired by the author.

Some of the apparent inconsistencies in the practice of the courts seem to have their origin in race or class bias; in reading the cases one often gets the impression that the desire to protect a white cropper against an overbearing landlord may have induced the court to declare him a tenant while in other cases Negro tenants may have been held to be croppers where such decision was advantageous to the landowner. But the author, keeping steadfastly within the boundaries of jurisprudence, reveals almost nothing of the clash of interests that constitutes the background of litigation. Thus, Mangum's work is essentially and intentionally a treatise on the law of tenancy and as such, it impresses this reviewer as a piece of highly competent scholarship.

*Rudolf Heberle**

THE TIDELANDS OIL CONTROVERSY—A LEGAL AND HISTORICAL ANALYSIS, by Ernest R. Bartley. University of Texas Press, Austin, 1953. Pp. x, 312. \$5.00.

A relatively new problem in the field of constitutional and international law, one which was only recently realized by the general American public, is treated with detail and clarity by Mr. Bartley, who is presently a member of the faculty of the University of Florida. Although the littoral states' claims to the tidelands were partially appeased by the Eighty-Third Congress (First Session, Chapter 65, Public Law 31) the material set forth by the author is far from being obsolete.

Starting out with a brief description of the problem, the author then proceeds to show its historical development, beginning with the Roman law. The claims made by England, prior to the Revolutionary War, are dealt with at length, since it is

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argued that whatever rights of ownership England had prior to 1776 accrued to the thirteen original states thereafter. It is then argued that the admission of later states to the Union upon an equal footing gave to them the same claim to submerged lands as had the thirteen original states. Thus is shown the reasoning used by the individual littoral states, whereby they assumed that they had a valid claim to the submerged lands.

After setting forth the history of the problem, Professor Bartley treats in particular the claims of California and Texas. Both the congressional policy on submerged lands prior to World War II and the executive policy prior to *United States v. California* are dealt with at length. He also gives the legislative history of attempts at quitclaim measures in 1945. Professor Bartley devotes two chapters to a study of *United States v. California* and the immediate aftermath of this case. He treats in less detail the cases of *United States v. Louisiana* and *United States v. Texas*.

The author's attitude toward the decisions of the Supreme Court in the submerged lands cases is that they are incorrect, and he presents six specific reasons for so believing, on pages 278-280, all of which are bolstered in full detail by the arguments of both sides of the controversy. The author says: "That judicial ruling, however, does not approach in importance the basis upon which the court reached its conclusions. Establishment of the precedent of the doctrine of paramount rights transcends in consequence the disposal of a few thousand barrels of petroleum. By the invocation of this doctrine, the controversy is moved beyond the bounds of ordinary American constitutional law." He continues, "The effect of the Supreme Court's action is to declare that there is no question of title below low-water mark in the open sea; instead, the question is one of the exercise of the powers of external sovereignty. These powers of external sovereignty accrue to the nation because it is a nation; the powers are not fettered by the usual understandings of constitutional relationships and limitations between the states and the central government." (p. 275)

Louisiana's claim to the tidelands is not dealt with as thoroughly as is that of California and Texas, it being said to have rights basically similar to California. While this is true, a little further discussion of the Louisiana Boundary Extension Act (La. Revised Statutes 1950, 49:1-3) and its validity would have

been helpful to the Louisianian in view of the fact that Louisiana has such a vast petroleum potential beyond the three mile limit or historic boundary. The constitutionality of quitclaim deeds, an issue which is being tossed around today, was not considered at length, although the author's viewpoint, and some of the considerations involved, are discussed on pages 230-233.

No attempt was made to take all of the problems of the tidelands, both present and those foreseeable in the future, and reach a conclusion as to each one, although the author did point out the bulk of them. Instead, in his own words, he presents "a case study in American federalism—the genesis, the life, and the possible future status of one controversy in the long history of attempts to demarcate the line which separates state and national power." (p. 281)

The material is presented without the use of highly technical terms—an accomplishment, in itself, to be greatly admired. Mr. Bartley has done an excellent job in giving legal treatment to a problem which was, and probably still is, thought by the general public to be strictly political.

Robert Lee Curry III