



1908

BOOK REVIEWS

Follow this and additional works at: <http://digitalcommons.law.yale.edu/ylj>

Recommended Citation

BOOK REVIEWS, 18 *Yale L.J.* (1908).

Available at: <http://digitalcommons.law.yale.edu/ylj/vol18/iss2/7>

This Article is brought to you for free and open access by Yale Law School Legal Scholarship Repository. It has been accepted for inclusion in *Yale Law Journal* by an authorized editor of Yale Law School Legal Scholarship Repository. For more information, please contact julian.aiken@yale.edu.

BOOK REVIEWS

The Commerce Clause of the Federal Constitution. By Frederick H. Cooke. New York. Baker, Voorhis & Co. 1908. pp. 302.

Hardly any work will be welcomed with more enthusiasm by the profession than a work dealing with the "Commerce Clause" of the Federal Constitution. The vast import of this clause is being realized year by year, to a greater extent. The courts are finding themselves called upon more often to rule upon it. The increase of our interstate and foreign commerce has called for the construction of this clause in very difficult and exacting cases and has led to, perhaps, the most important legal controversies in the construction of the Federal Constitution.

The decisions of the courts have been varied, and apparently in hopeless conflict on some propositions, and when one undertakes to clarify the situation and to reconcile the decisions, his work is greatly appreciated by the profession. Such has been the motive of Mr. Cooke in his work. He tells us that his object is to reconcile the decisions which have grown up "in a sporadic and haphazard fashion," and to discover "the underlying unifying principles" which he thinks were lost sight of by the courts in their reasoning. The author, while assuming a difficult task, has accomplished a great work. A careful study of the book discovers patient and painstaking research, in an endeavor to conform to his desire in the outset to reconcile the cases, but he is obliged to concede that some of the propositions are beyond reconciliation. He has, nevertheless, set forth in clear language the fundamental principles underlying the cases, and in the light of the constructions of the courts, shown us the dividing line between the power of the state and the power of the federal government over commerce. Mr. Cooke has endeavored to define what commerce is, and gives us a definition which is bound to receive recognition. He says: "Commerce is transportation, including that of person, tangible property and of intelligence." An attempt is made to show what matters the state has jurisdiction over, and what the federal government controls. This surely is a difficult task but he has handled it in an exceptional manner. The author cites many cases, and the book abounds in valuable notes which are equal in importance with the main text.

This work will be a valuable addition to the many treatises upon this subject and should be warmly welcomed by the profession as an aid to the correct interpretation of the clause of the constitution. The author deserves praise for his endeavor to draw a clear line of demarcation between the cases, and to show a uniform rule to govern in the interpretation by the courts.

H. J. C.

Ideals of the Republic. By James Schouler. Boston. Little, Brown & Co. 1908. pp. 288.

"The purpose of this book," the author says, "is to trace out those fundamental ideas, social and political, to which America owes peculiarly her progress and prosperity, and to consider the application of those ideas to present conditions."

The scheme of the book, as worked out, might well be divided into three parts: the first dealing with rights, natural, civil, and political; the second, dealing with the governmental schemes of the various states of the Union, and of the Union itself, with the effects of these rights thereon; and the third concerning itself with the ideas, theories, and ideals, as they are, and should be, with regard to the government.

The whole is worked out in a manner interesting to the profession and laity alike, the legal references being comparatively few. The style is pleasing, and the many references interesting, and, of course, apposite. These references are for the most part to contemporaneous events and movements, and while one would naturally not agree with all the author says about such events as the Standard Oil fine and the recently strong Prohibition movement, still his views are strong and bound to command respect. All in all, it is well worth reading.

H. F.

Select Essays in Anglo-American Legal History. By various authors. Compiled and edited by a Committee of The Association of American Law Schools. Little, Brown & Co. Boston. 1908. Vol. II. pp. 823.

Without a doubt, the second volume of this series retains the high position set for it by the first volume reviewed in a previous issue of this *Journal*. The essays stand for a profound research into the depths of the sources of Anglo-American legal history. The full value of this work will not be thoroughly appreciated by the every-day practicing lawyer, but the significance of what

this compilation stands for will be forcefully brought home to the legal lecturer. The invaluable nature of the work is clearly shown when one perceives the committee which had it in hand. From such a master mind as John H. Wigmore, without mentioning the others, we expect the best and we are not disappointed in this research. We heartily recommend this work to all lawyers.

W. J. L., Jr.

Street Railway Reports. Vol. 5. By Frank B. Gilbert, Melvin Bender and Harold J. Henman. Albany, N. Y. Matthew Bender & Co. 1908. pp. 964.

The fifth volume of this work is very welcome to the profession. The law governing street railways is constantly changing; cases are arising every day, so that it is difficult to follow the law in the many states. This work gives us the law to date, setting out the late cases in full, followed by a note which gives the law in the other states upon the questions decided in the main case. The authors start the book with the cases lately decided in Alabama, and proceed in alphabetical arrangement to the decisions of Washington. This arrangement has the singular advantage, little noted in many report books, of allowing one to immediately see the law as laid down in his own state, and then, with the aid of the notes, see the law of the different states. A work of this sort is always welcome, as the practicing attorney has not the time to delve into the different decisions. He wants a work at his hand with which he can readily inform himself. This work meets this demand in regard to the law of street railways. With the three complete indexes to the book, the busy practitioner will find this work invaluable.

H. J. C.