



1916

BOOK REVIEWS

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

Recommended Citation

BOOK REVIEWS, 26 *Yale L.J.* (1916).

Available at: <http://digitalcommons.law.yale.edu/ylj/vol26/iss1/11>

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

Magna Carta and Other Addresses. By William D. Guthrie, New York. Published by the Columbia University Press, New York. 1916. pp. vi, 282.

Dr. Guthrie has collected in this book ten addresses made upon various special occasions, mostly before State Conventions and Bar Associations. Naturally on this account somewhat popular in character, they are addressed less to the technical student of the law than to all who are interested in those questions of public policy and constitutional interpretation in which we naturally look to the lawyer for guidance. Upon a number of important questions of this kind suggestions of much value in one way and another are made in the book.

The most technical of the addresses in character is the one on the Eleventh Amendment of the Constitution of the United States delivered before the New York State Bar Association in 1908. This is a closely reasoned and from the constitutional point of view convincing argument for the right of United States courts to issue injunctions to restrain state officers from enforcing those statutes of their states which are judged in conflict with the national constitution. In this and other addresses the general attitude of Dr. Guthrie towards questions of current political discussion is clearly revealed as the traditional attitude of the Republican party untinged with any Progressive modifications, and the book may be taken as an able and authoritative defence of that attitude by a trained and experienced constitutional lawyer.

Interesting is the first address, which gives chief title to the book, made to the State Constitutional Convention of New York at its celebration of the seven-hundredth anniversary of Magna Carta. Dr. Guthrie clearly shows American indebtedness to the Great Charter, though in some cases his idea of its meaning corresponds more nearly to that of its interpreters in the seventeenth century than to the understanding of its provisions by those who made them in the thirteenth. New I think to the literature of Magna Carta is the statement on page 8 that we have in the first chapter of the Charter, referring to the granting clause, "the antecedent of the great controlling principle underlying the whole structure of American constitutional law, that

any statute in conflict with the fundamental laws, so far as we see fit to perpetuate them in constitutional provisions, shall be void and null, in the language of the Great Charter." Elsewhere (p. 42) he quotes with approval Alexander Hamilton's undoubtedly correct explanation in the Federalist of the source of this power in a written constitution which confers only definite and delegated powers upon the legislature. This was something new in Anglo-Saxon history and is a definite and valuable contribution of the United States to government.

GEORGE BURTON ADAMS.

The Law of Promoters. By Manfred W. Ehrich, New York. Published by Matthew Bender & Co., Albany, N. Y. 1916. pp. lxi, 645.

In writing this work Mr. Ehrich has rendered a distinct service to the legal profession, for he has put in one moderate sized volume the law on a subject which has been and will continue to be of importance to the Bench and Bar.

The term "promoter," as used to denote that individual who seeks to interest the public in the forming of a corporation and who directs and takes charge of the initial steps in its formation, is a term of comparatively recent origin. However, the decisions of our highest courts expounding the law which governs the relations of "promoters" to those with whom they deal, and for whom they act, have already grown to large proportions; and today, the law relating to "promoters" forms a very important branch of the general law of corporations; a branch of which no practitioner, either special or general, can afford to be in ignorance.

To attempt to condense within the confines of a single volume the law on such a subject might well seem an arduous, if not impossible task, but it has been done, and done with no sacrifice of essentials. As indicating the comprehensive scope of the work a few of the subjects treated are herewith given: "Promoters Generally; Contracts Made for the Corporation by its Promoters; Secret Profits; Lawful Promoters' Profits; Promoters' Defences to Suits by the Corporation; Remedies of the Corporation; Promoters' Liability for False Representations; and Right and Liabilities of Promoters *Inter Se*; Abortive Promoters, etc. The treatment of each subject, while not intended

to be exhaustive, is sufficiently thorough, and the text itself is written in a clear and positive style rendering simple the task of the reader. Abundant notes and citations supplement the text. A table of cases is cited and there is a very well arranged index which adds materially to the value of the production.

It seems strange to record the fact that this is the first text book which has appeared on the subject of "Promoters" since 1898; and it will be readily appreciated that Mr. Ehrich's contribution to legal literature will be for that reason doubly welcome.

ELIOT WATROUS.

Huddy on Automobiles. Fourth Edition by Howard C. Joyce. Published by Matthew Bender & Company, Albany, N. Y. 1916. pp. xxxii, 576.

To meet the needs of this rapidly growing branch of the law a fourth edition of this well known work has been brought forth. The third edition, published in 1912, has proved itself well worthy of a place on the busy lawyer's shelves. This new edition should meet with a no less hearty welcome. The text has been thoroughly revised and brought up to date. The citations include the latest judicial utterances on this important branch of the law. There have been added a chapter on insurance and a chapter on the obstreperous jitney. These, together with the revision of the former text, add some one hundred pages to the size of the volume. It is a thoroughly practical book, suitable alike to the needs of the practitioner, and of the automobile owner who is interested in the legal aspects of his ownership.

W. W. GAGER.

The Law of the Public School System of the United States. By Harvey C. Voorhees, Boston. Published by Little, Brown and Co., Boston, Mass., 1916. pp. lvii, 429.

Interest in the legal relations arising out of the Public School System of the United States has recently increased, particularly in the field of legislation. The increasing cost of maintaining the educational system due to such financial problems as teachers' pensions; the appearance of representatives of organized groups of teachers advocating the passage of special statutes by the

legislature; and the growing appreciation of the inability of school officials who have been elected or appointed for ulterior political reasons, to deal with the educational problem, have given rise to important legal as well as sociological questions.

A book dealing solely with the law of the Public School meets, therefore, the requirement of a large number of laymen and lawyers; especially, as there is no other modern work on the subject. This book, the author intends, as shown by the announcement of his preface, should serve school officials in settling many of the troublesome questions which come before them. A good index and a synopsis of the principal statutes are commendable aids. The text is practically a digest of decisions. It confines itself more to the statement of the solution of specific problems which have arisen in the courts, than to discussions of legal theories.

W. B. GUMBART.

The American Plan of Government. By Charles W. Bacon, A.B., Harvard, assisted by Franklyn S. Morse, A.B., A.M., Harvard, with an introduction by George Gordon Battle, M.A., University of Virginia. Published by G. P. Putnam's Sons. New York. 1916. pp. xxi, 474.

Readers of the YALE LAW JOURNAL may recall two interesting articles dealing with the adaptability of the United States Constitution as applied to modern American life, one by Joseph R. Long entitled "Tinkering with the Constitution" appearing in the May, 1915, issue, and the other "Rejuvenating the Constitution" by Charles Zueblin in the January, 1916, issue of the Journal. These two articles indicate two well-developed opposing lines of thought, one favoring a remodeled Constitution and the other opposing a radical change. The author of "The American Plan of Government" does not in this book advocate either view, but the work supplies that knowledge of the scope and meaning of the existing Constitution which is necessary for intelligent advocacy of either view, and indeed which is necessary for any intelligent appreciation of the duties of American citizenship.

As Mr. Battle points out in his interesting and illuminating introduction, there is no similar book in existence. The plan of the work is indicated in the sub-title "The Constitution of the

United States as Interpreted by Accepted Authorities." For the most part the United Supreme Court is the accepted authority. The Constitution and Amendments are set forth, clause by clause, together with a discussion of the important cases upon each point. The system is the same as that used in publishing an annotated edition of statutes, although the discussion of each point is decidedly more comprehensive than that contained in ordinary annotations. This mode of considering the Constitution cannot be too highly commended; for there is here presented in an orderly and systematic manner a view of the entire Constitution as it has been applied to the changing conditions of our national life.

Much of the material here presented was used by the author in the New York City Public Lecture Courses, and this fact is indicated both in the style and in the matter of the book. The author has in general given simply the decision of the Court without original comment or discussion. The work is apparently planned not for the constitutional lawyer but for the ordinary citizen, and a complete treatise upon constitutional law is not intended. This method of treatment, while possessing the great merit of giving a reasonably complete view of this very important subject in a small compass, necessarily makes it impossible to do full justice to some of the more important questions. The discussions of the commerce clause and the Sherman Law, and of the full faith and credit clause and the Haddock divorce case are hardly adequate. Nor is the consideration of the cases of *Dartmouth College v. Woodward* and *Proprietors of Charles River Bridge v. Proprietors of Warren Bridge* entirely clear, for the impression is conveyed that the latter case stated a different rule than did the former; whereas the latter case decided only that the chartering by the State of a competing transportation company did not impair the obligation of the contract contained in the charter to the original transportation company, and left intact the great principle of the Dartmouth College case that a corporation charter is a contract the obligation of which is not to be impaired through amendments even by the State creating the corporation. But any possible faults of this nature are due to the limits which the author has set for himself, and on the whole he has wisely not attempted too elaborate a treatment of the subject. As it is, the book should reach a much larger audience than would a more extended treatise, and it well deserves an extended circulation.

While the author is impartial upon the subject of amending the Constitution, the book by its very nature is a powerful argument, as is any history of the interpretation of the Constitution, against any radical change. We see here how the Constitution has met new conditions in the past, and we may well expect that it will adapt itself to future needs. As President Wilson has said, "The Constitution of the United States is a vehicle of life, not a skeleton of fear."

CHARLES E. CLARK.

South America: Study Suggestions. By Harry Erwin Bard, A.M., Ph.D. Published by D. C. Heath & Company, New York. 1916. pp. 68.

Trust Laws and Unfair Competition. By Joseph E. Davies, Commissioner of Corporations. Issued by the Government Printing Office, Washington, D. C. 1916. pp. lvi, 832.

Year Book of the Carnegie Endowment for International Peace. Issued by Carnegie Endowment for International Peace, Washington, D. C. 1916. pp. xviii, 204.

Toward the Danger Mark, Administration of Justice in the United States. Evils—Causes—Remedies. By Cairolì Gigliotti, Chicago. Published by the author. 1916. pp. xxv, 188.