

## BOOK REVIEWS.

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LECTURES ON THE FOURTEENTH ARTICLE OF AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES. Delivered before the Dwight Alumni Association by WILLIAM D. GUTHRIE. Boston: Little, Brown & Co. 1898.

Mr. Guthrie's lectures furnish most entertaining reading and at the same time display great thoroughness of learning. Especially noteworthy is the author's minute familiarity with all the recent cases. His views are "views of the day" in an exaggerated degree; he expresses in the most pronounced form the present increasing tendency to shoulder upon the Federal courts responsibility for everything. He wants further extension of the "constitutional guaranties" to protect foreign corporations from state invasion of their "property rights" and of what he thinks should be their "privileges and immunities" (see p. 55). He wants to construe the first eight amendments as incorporated into the restrictions on state action by virtue of this "magna charta," as he calls the Fourteenth Amendment, and thinks the courts will eventually alter their position and make such a construction (p. 58, *et seq.*). The language of the Reconstruction Committee which reported the Amendment is quoted to support this interpretation, and the contention is made that the "question has yet to be squarely decided by the Supreme Court in some case properly raising the point and fully presenting it in connection with the intention of the framers of the Fourteenth Amendment. To this intention . . . not the slightest reference has heretofore been made in any case . . ." (p. 64).

After reading this language it seems a little curious to go back to an earlier lecture and discover that "the Fourteenth Amendment was not adopted in order . . . to vest in the Supreme Court general supervision over the legislation of the states, with authority to nullify such as it did not approve. If this were not so, the Supreme Court would become the censor of practically all state statutes and the tribunal of appeal from all legislation regulating or affecting individual liberty or property rights" (p. 43). What less than this would result from a construction which embodies in the Fourteenth Amendment all the first eight amendments, and gives foreign corporations the "privileges and immunities" of citizens? We have a condition of affairs even now too nearly approaching that described. Mr. Guthrie (p. 28) points out that the ten years since the appointment of Chief Justice Fuller, have been the period of the greatest activity of the Supreme Court and that this greatest activity is occasioned principally by cases under the Fourteenth Amendment. "More cases involving the Fourteenth Amendment

are now presented to the Supreme Court for adjudication than upon any other branch of jurisprudence" (p. 27). Our "due process" and "equal protection" cases already clog the wheels of justice. Laws and ordinances in every other country considered the appropriate exercise of administrative authority, are here attacked in District, Circuit, Supreme courts, and finally after litigation often lasting years are solemnly pronounced unconstitutional.

The five lectures are entitled as follows: I, Of the History of the Fourteenth Amendment (very interesting); II, The Principles of Construction and Interpretation; III, Of Due Process of Law; IV, Of the Equal Protection of the Laws; V, Of the Rules of Practice. There is added a well annotated copy of the Constitution, which has an index separate from that of the lectures.

R. W. W.

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THE COMMERCE CLAUSE OF THE FEDERAL CONSTITUTION. By E. PARMELEE PRENTICE and JOHN E. EGAN. Chicago: Callaghan & Company. 1898.

The Commerce Clause of the Constitution has become, by force of the increasing importance of the subject upon which it acts, most vitally interesting to all who desire that the constitution may be found equal to the enormous strain new occasions are ever calling upon it to endure.

Our authors have called attention to this clause as a "peace-maker." This it most undoubtedly has been, and, perhaps, the thought has a wider application than the writers intended. The throwing down of any barrier, be it industrial or otherwise, which divides the selfish interest of one set of men from those of another set, is usually equal to the formation of a bond of union. Our constitution in this, as in many other apparently minor points, has in itself the seeds of many a peaceful revolution, if it be but preserved until the slow processes of nature allow the harvest to succeed the seed time. The events of the past few years, however, may lead many to ask if, under certain interpretations, this same clause may not be rather the promotor of passions such as lead to violence and bloodshed rather than to the calm ways of peace. When the authority of the peace-maker is invoked to justify the utterance of such militant words as these, "If the emergency arises, the army of the Nation and all its militia are at the service of the Nation to compel obedience to its laws." *In re Debs*, 158 U. S. 582, the promise of peace seems silenced by these harsher sounds. Our authors, however, do not attempt to look far into the future, they give us what has been done, and give it in the usual mode. That is, they divide their subject into heads and sub-heads, and arrange the cases in orderly progression under these. Our judges should be flattered in these latter days of books composed of extracts from their decisions strung together with slender connecting threads by

the judicious hand of the author. Since they have said these things so well, why, indeed, should the author say them over again in his own way, which, in many cases, he may be justified in thinking will not be a better way? Certainly, if the author has not much to say, it is well he should say little, but the reader may sometimes feel that he has heard these judicial voices before; they were acquaintances of his early student life, and friends before he finished. But they were not always in accord, and they left problems which as yet he has not been able to solve. He looks at a new work such as this with hope for new light on these problems; he finds them stated, finds a clear and systematic setting forth of the law on the question; a book to which he can turn to settle a half forgotten point or confirm his remembrance of others; in many ways a most satisfactory book, and if he asks for more, he is probably ungrateful, for he is asking for what is denied him in the vast majority of the books upon the law which now come to him. And since the supply of others is so limited, he may well ask himself if the demand is not limited also, and if he is not of a minority too small to be of concern to the makers of books.

M. C. K.

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A COMPENDIUM OF INSANITY. By JOHN B. CHAPIN, M.D., L.L.D.  
Illustrated. Philadelphia: W. B. Saunders. 1898.

A book by so eminent an authority as Dr. Chapin is always deserving of careful attention, and when, as in this case, it supplies a professional want of long standing, viz., a compendium in a concise form, of the diseases of the mind, stripped as far as practicable of technical terms, it deserves conscientious appreciation. After stating that the abnormal conditions and manifestations usually embraced under the terms "insanity" and "idiocy," or occurring as complications of bodily disease, are better studied when aided by a knowledge of the operations of the mind in its normal condition, the author devotes an introductory chapter to the consideration of the operative faculties of the normal mind, which, for purposes of convenience, he divides into the *intellectual faculties, the emotions or feelings, and the will*, and the relation of the physical characteristics of individuals to mental peculiarities.

The treatise itself is comprehensive yet simple. A chapter on Idiocy and Imbecility, in which an accurate definition and description of each is given, and the distinction between them explained, is followed by one devoted to the definitions of insanity. After quoting several, he gives his commendation to the following: "Insanity is that mental condition characterized by a prolonged change in the usual manner of thinking, acting, and feeling—the result of disease or mental degeneration." Chapter III. defines and distinguishes the terms Delusion, Hallucination and Illusion, and then the author points out that, as these usurp the places of other ideas. they make new channels and operate upon individuals so as

to excite actions. This phase of the subject is treated in a chapter entitled Actions of the Insane. The classification and nomenclature of the various forms of Insanity—Mania, Melancholia, Periodic Insanity, Progressive Systematic Insanity, Dementia, Organic and Senile Dementia, General Paralysis, Insane Neurosis, Toxic Insanity, Moral and Impulsive Insanity, Idiocy—and a treatment of each of them, follows in logical order, together with valuable suggestions for treatment in each of these forms. Interesting, though brief, is a chapter on those Abnormal Psychical States brought about by traumatic or moral shocks, or obscure nervous diseases, which manifest themselves by a suspension of conscious cerebration, or of the function of some of the faculties of the mind, as the will and memory. The author points out that persons so affected cannot be classed as insane and cautions great care in fixing a degree of mental responsibility. The relation of Morbid Anatomy to Insanity, a chapter on Medical Certificates and Feigned Insanity, of great practical value, complete this treatise. The author gives a concise account of the various steps in the proceedings for the detention and treatment of the insane in hospitals, and emphasizes the responsibility of the physician in this important inquiry.

Even a cursory reading of this work impresses one with the author's complete grasp of his subject, and we have no hesitation in prophesying a complete fulfillment of the hope expressed in the preface that "it will prove helpful to members of the legal profession, and to others who, in their relations to the insane, and to those supposed to be insane, of the desire to acquire some practical knowledge of insanity, presented in a form that may be understood by the non-professional reader."

*J. A. McK.*