

BOOK REVIEWS.

THE CONSTITUTION OF NORTH CAROLINA. Annotated by Henry G. Connor, formerly Associate Justice of the Supreme Court of North Carolina, now United States District Judge for the Eastern District of North Carolina, and Joseph B. Cheshire, Jr., of the Raleigh, N. C. Bar, Raleigh, N. C. Edward and Broughton Publishing Co. 1911. Pp. LXXX, 508.

The Bar of North Carolina is to be congratulated upon this serviceable presentation of the Constitution of their State. Those of other States also may read it with profit. The order is that of the Constitution; the expression and arrangement are those of a careful judge, and the diction is simple and concise.

The proper interpretation of any constitution requires a thorough understanding and a sympathetic appreciation of the principles, ideals and purposes of the people whose views the constitution is intended to declare. Only then can the true import of the declarations of their fundamental and permanent law be perceived. This necessary information is ably presented in the introduction. The author seldom discloses his own conception, preferring to recount the words of those who created the State, conceived or employed the ideas or drafted the constitution. Since a constitution is the dead drag of the past upon the progressive or radical ideas of the present, it is proper that the full force of the deterrent should be understood.

The treatise appears to achieve its aim to present the constitution in such a manner that one can readily discover the present construction of any clause or provision by the courts of the State or Nation. Since the constitution itself, differing from many, declares that "the State shall ever remain a member of the American Union; that the people are a part of the American Nation; that there is no right on the part of a State to secede, and that all attempts, from whatsoever source or upon whatever pretext, to dissolve said Union or to sever said nation ought to be resisted with the whole power of the State," it is proper that the laws of the nation should interweave the laws of the State.

While the nature of the subject required that its authors should be firmly bound by *stare decisis*, it is perhaps to be regretted that there were not more frequent interjections of the authors' own conceptions.

J. B. L.

THE LAW OF FRAUDULENT CONVEYANCES. By Melville Madison Bigelow. Revised by Kent Knowlton. Boston: Little, Brown and Company. 1910. Pp. LXIX, 762.

The present volume contains so much of "Bigelow on Fraud" as was therein included under "Circumvention." Whether the subject should be continued at all under the classification of fraud may be questionable, because of the stigma attaching thereto and the absence of cause therefor in many of the transactions included thereunder. Our legal terminology is, however, too indefinite and too much beholden to the past to avoid this result.

In the present edition the historical and theoretical treatment of the subject continues in the language of Dean Bigelow. The language there used could not well be altered. Where discussion is of bearing on the current law and present conditions, the present editor has added greatly to the value of the prior edition by his classification of the recent authorities. While the former edition concerned itself rather with the theory, the additions

in the present edition appear to strive for utility, and to bear the marks of the office rather than the cloister. It is not unsuccessful in its aim nor to be condemned for its atmosphere.

The edition is a considerable improvement upon the prior treatise, not only because it is recent and reliable, but also because of its arrangement. The text proper continues, as heretofore, available to the mere student and the notes will be found of considerable assistance to the mere practitioner.

J. B. L.

OBSCENE LITERATURE AND CONSTITUTIONAL LAW. By Theodore Schroeder. Privately Printed for Forensic Uses. New York, 1911.

It is a congenial task for any one who harbors any of the emotions of the iconoclast, toward certain of our modern tendencies of democracy, to read, discuss and criticise the book under review. One of the commonly accepted vices of any monarchical or one man rule is the almost inevitable tendency of the ruler toward a highly exaggerated self-apotheosis. The celebrated phrase of a certain French monarch is sufficient illustration—"L'Etat —c'est moi". "I am the State." One of the vices of democracy is the tendency of every individual, vested either temporarily or permanently with head of a State, of a municipality, of a business, of an institution, comes to regard himself as the divinely favored recipient of an exalted common sense, from which he individually may define virtue *a priori*, and prescribe what is best for other people. Each individual who has reached this happy conclusion sees in himself, however, a favored variation from the type of our species that exempts him from the laws that he is very particular to commend to the observance of others.

The author of the book under review attacks the *a priori* theories of virtue that have suppressed the publication and dissemination of literature designated, according to their tests, as obscene. He combats in his early chapters the notion that any individual can prescribe such a test. The quotation from Professor Münsterberg, "No subjective feeling of certainty can be an objective criterion for the truth," is very apt to the purpose. Mr. Schroeder is very earnest in his conviction that the suppression arbitrarily of matter as obscene and the embargo on its transmission through the mails, is not only responsible for ignorance in sexual matters that helps to fill our asylums, but is a direct violation of the constitutional guarantees of the freedom of the press. The truth in all cases should be faced, and attempts to hide serve only to increase the evil they would eradicate.

The arguments from history and authority are skilfully debated and are, as well, convincing. To this add, that the literary merit of the work is undeniable, and that the author's attitude is, beyond peradventure, sincere. It must be useful to the profession for which it was written, and its views are worthy of very careful consideration. It may be commended to all who have the courage to face the truth.

G. F. D.

THE LAW APPLIED TO MOTOR VEHICLES. Charles J. Babbitt. John Byrne & Co., Washington, D. C. 1217 pages, 177 of which constitute appendices and index.

The above is a modern text-book which, as its title indicates, treats of the law as applied to motor vehicles, and contains a full digest of recent decisions and statutes. While it deals with a subject more or less novel and is intended as a hand-book for the active practitioner, it is well grounded in the fundamentals of the law. There is here found an excellent combination of cases old and new, the latter shown to be but a later phase of the development of the same principle announced in the former, undergoing

but slight change in its application to a new situation. We regret that its value as a general hand-book is somewhat impaired by reason of the fact that it gives undue prominence to the statutes and decisions of Massachusetts; but, at the same time, we realize that this is well nigh unavoidable where, as here, the author deals with a subject which he has learned at first hand in his daily work at the Bar of his state. On the whole this book should be found of great value to any one having in hand a motor vehicle case, and it may be consulted with profit on any of the kindred subjects treated by the author.

I. E. D. C.