

## BOOK REVIEWS.

THE DOCTRINE OF JUDICIAL REVIEW. By Edward S. Corwin. Pp. vii and 177. Princeton, N. J.: Princeton University Press, 1914.

This book takes its title from the first of a series of five essays which make up the volume. The subjects treated, all of which relate to questions connected with American Constitutional Law, are "*Marbury v. Madison*, and the Doctrine of Judicial Review"; "*We the People*"; "*The Pelatiah Webster Myth*"; "*The Dred Scott Decision*", and "*Some Possibilities of Treaty Making*". The discussions are interesting and readable. It seems not inappropriate, however, to refer especially to the first essay, since, although it deals with a much overworked subject, it discloses a real contribution to the literature on the topic. Of the remaining essays, that on the Treaty Making Power seems the most original and suggestive, but the others all evidence an interested study of the matters discussed.

The book is not so much addressed to the trained constitutional lawyer, or for that matter to the legal profession, as to that indefinite person the "general reader", who, if he be a person of a reasonable amount of education, will doubtless find it interesting.

H. W. B.

THE EVIDENCE IN THE CASE. By James M. Beck, sometime Assistant Attorney General of the United States. Pp. xxiv and 200. New York: G. P. Putnam's Sons, The Knickerbocker Press, 1914.

Mr. Beck in this little volume reviews all the evidence which the great nations have adduced to justify their entrance into the present war. The evidence is summed up before an imaginary court, the Supreme Court of Civilization, which exists in "the cosmopolitan men of every country who put aside racial and national prejudices and determine the right and wrong of every issue between nations by that slowly forming system of international morality which is the conscience of mankind". The book is legal in form and the inferences drawn from the facts are no greater than those which actually would be drawn in court. The conclusions reached are that the moral responsibility of the war rests upon Germany; that Germany could have averted the conflict had she chosen to do so, and that her violation of the neutrality of Belgium was wholly unjustifiable. It is true that this result is reached when incomplete evidence is offered in support of Germany and none at all offered by Austria; however it seems safe to assume that as each of these nations has made such strenuous efforts at justification, the strongest arguments are already advanced.

The style of Mr. Beck is pleasing and his arguments are convincing. The book should be of interest to every one, whether or not they agree with the author's conclusions.

E. W. M.

HANDBOOK OF THE LAW OF MUNICIPAL CORPORATIONS. By Roger W. Cooley. Pp. xii and 711. St. Paul, Minn.: West Publishing Company, 1914.

Following close upon the publication of a new edition of Judge Dillon's monumental work on municipal law, it is not surprising that a feeling of incompleteness is experienced in examining Mr. Cooley's attempt to encompass the subject in one small volume. The statement and re-statement of fundamental principles is praiseworthy, but the production of a book for practical usefulness requires something more to justify its purpose. Thus it is unsatisfactory to pursue a topic to the point where we are told that an important distinction exists between the governmental functions of a city and its purely private corporation character, but to search in vain for any

helpful suggestions concerning the proper test to be applied. Indeed it would appear from certain of the author's statements that the Legislature may not control the exercise by a municipality of the so-called private function of providing water, gas or electricity for its inhabitants. Yet it is well known that in many states public service commissions subject municipally owned and operated public utilities to intensive regulation. It is open to serious question whether such municipal activities are to be treated as governmental or private functions in view of decisions so important as *Pike's Peak Power Co. v. Colorado Springs*, 105 Fed. 1 (1900), but the author assumes them to be private without consideration of the difficulties which beset the path.

In the general discussion of the extraordinary activities of wide-awake municipalities, an error of omission is evident. No more fruitful topic for ingenuous legal wrangling is promised in the next few years than that of the extent to which municipalities may be authorized to use public funds to engage in newer and different forms of purveying goods or services to their inhabitants. Water plants, municipal bands, hospitals, nurses, housing commissions, research boards, civil service commissions, libraries, bath-houses, docks, recreation grounds, all these we have. May we have municipal fuel yards, central heating plants, markets, theaters, moving picture exhibitions? Is ice always mere frozen water? A recent Louisiana decision declares it is not and shakes one's faith in the validity of the Pennsylvania statute of June 25, 1913, P. L. 550.

By far the best done portion of Mr. Cooley's book is his discussion of what may be called the classical city and town law. The liability of a city or town for torts, the creation, calculation and payment of its debts and the right to sue and be sued are all thoroughly and well discussed. After all is said these subjects are the primary matters for the student-at-law; the others, being less well defined, may, perhaps, be left to the better trained mind of the student of law, a term by which we may characterize the true lawyer whose study does not cease with his admission to practice.

R. J. B.

LEGAL PRINCIPLES OF PUBLIC HEALTH ADMINISTRATION. By Henry Bixby Hemenway, M. D. Pp. xxxvi and 859. Chicago: T. H. Flood & Co., 1914.

Of the social activities having to do with natural resources, none is of greater importance than the conservation of Community Health. The growth of knowledge upon conditions detrimental to health on the one hand and of conditions that may be made to operate in the opposite direction on the other, have placed clearly before those in possession of that knowledge duties that cannot be escaped. If it be desirable for the common weal that protection be afforded against accident and crime, modern science properly insists that it is equally desirable for analogous defenses to be erected against the perpetuation or the development of conditions prejudicial to the common health. To be effective the organization of such defenses must be upon well established legal principles. Those responsible for the administration of approved regulations should know both their legal powers and limitations. Unfortunately many health officials and the majority of laymen are ignorant of this phase of public health work.

The object of this book is to enlighten upon the legal aspect of the subject. This is done in an admirable manner. The author, a well known physician, versed in the law, discusses with authority the manifold phases of the subject. The volume is divided into two parts, in the first of which are discussed: The Relationship of Public Health to the Body Politic; The Underlying Principles of Government; The Triple System of Government and Relation of Each Branch to Public Health Administration; The Executive—The Organization; the Judiciary; Police Power; "Due Process of Law"; Nuisance; Public Health Powers and Limitations; Officers; Liabilities; Legal Remedies; Vital Statistics. The second part takes up such special subjects as: Quarantine; Licenses; Water Supplies and Drainage; Pure Food

and Drug Regulations; Industrial Regulations; School Inspection; Eugenics.

The chapters on "Underlying Principles of Government", "The Executive", "The Judiciary", "Police Power", "Nuisances" and "Public Health Powers and Limitations", should be read by every Health Officer. In a number of places one finds briefly stated most instructive data on the evolution of modern problems of Public Hygiene. The emphasis laid by the author on the "new knowledge" serves in a striking way to bring out the complexity of the present-day problem as contrasted with that of but a few years ago. Throughout the book the discussions are clear and concise, and the bringing together, as the author has done, of matters almost inaccessible to the busy official or layman, justifies the opinion that the volume "fills a long felt want".

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THE PRICE ACT RELATING TO REAL ESTATE IN PENNSYLVANIA. By Roland R. Foulke, of the Philadelphia Bar. Pp. 330. Philadelphia: The George T. Bisel Company, 1914.

The author of this treatise is well known to every reader of the *LAW REVIEW* by reason of his many contributions to its volumes, and also to the Bar in general for his valuable work on *The Rule Against Perpetuities in Pennsylvania* (1909, published by the same firm). The present work in one sense may be said to be a supplement of that earlier work where he dealt with Section Ten of the Price Act relating to Accumulations.

The Price Act of 1853 is one of the most important statutes in this State and constantly assists in the free alienation of property. The cases in which the court has jurisdiction were not arranged in the Act in any logical order, but the author has made a very careful and complete analysis of them (pages 18, 19, 20 notes) and treats them accordingly. The keynote of the whole work is thoroughness and clear analysis. The most complicated sections of the Act are so analyzed into headings, divisions and sub-divisions that the reader has no trouble in finding his way about.

The first two chapters deal with a preliminary discussion and the facts which must be present to give the court jurisdiction. In chapter three, the author treats of the different methods the title of the land in question may be disposed of, by sale, mortgage, lease, exchange, etc. In chapters four to eleven inclusive the legal disabilities of both the holder of and the title itself are dealt with. The next six chapters are devoted to questions which arise after the court has granted the petition, such as the amount of the security which is required, what happens to the purchase money in respect to its substitution for the land sold, the title of the purchaser and how it may be attacked, and the effect of a sale, either private or public, upon liens. In chapter fifteen the author treats at length the law as to sales in general in the Orphans' Court. The provision of the Act as to appeals is explained in chapter eighteen.

The author not only treats nearly every phase of the Act and cites authorities for its construction, but also points out in various places situations which the Act with its supplement does not cover and which should be provided for (See §81 for the situation of a husband where his wife has abandoned him, or is absent or unheard of for seven years, or is a habitual drunkard; see also §92). Concerning those portions of the Act for which authorities cannot be found, the author sometimes refuses to hazard his opinion as to what the law would be (See §§19, 24a, 108), and sometimes offers his opinion (See §§100, 150).

All through the work, the Act and the various supplements are cited in the notes. It is much easier to read the portion of the Act along with the author's discussion of it, than to be referred to some other part of the book where the whole Act is printed. The notes are very elaborate and most helpful. In the Appendix A, the Act and the supplements are printed with

references to those portions of the work where the matter is treated. In Appendix B, the author has collected a complete list of forms for petitions and decrees, to be used in the various proceedings under the Act, with explanation either by way of preliminary discussion or notes. There is also a very complete Table of Contents, and Index and a Table of Cases and Statutes. At the beginning of each chapter there is a complete outline of the various subjects treated and their sub-divisions. It is also pleasing to note that along with the other authorities, the author has cited several leading articles which have appeared in the *LAW REVIEW*. The use of leading articles in legal periodicals as authorities is becoming a well established method of citation among the recent authors.

The workmanship of the book is of a very high order, misprints being few and far between. This book can be well recommended to the profession, not only as an excellent contribution to legal literature, but also as a valuable tool to be used in everyday professional life.

*D. D. S.*

PROCEEDINGS OF THE ILLINOIS STATE BAR ASSOCIATION. Pp. iv and 492. Chicago: edited by John F. Voigt, Secretary, 1914.

This book contains a detailed report of the proceedings of the Illinois State Bar Association at its thirty-eighth annual meeting held on May 27 and 28, 1914. The most interesting feature of the book is the publication of the addresses delivered at this meeting: "The Enforcement of Law", by Robert McMurdy, Esq.; "The Administration of Justice", by Hon. William Renwick Riddell, a frequent contributor to the *LAW REVIEW*; "Enforcement of Law: One Way to Make It Better", by John B. Winslow, Esq., and "Law Schools and Reform in Procedure", by Henry M. Bates, Esq. These addresses are well worth reading and it is fortunate for the Bench and Bar that they have been published.

*E. W. M.*