

BOOK REVIEWS

CONSTITUTIONAL CONVENTION BULLETINS. (Illinois, 1920). Compiled and published by the Legislative Reference Bureau, Springfield, Illinois, 1920, pp. 1224.

In preparing for the Constitutional Convention now being held in Illinois, the General Assembly of that state charged the Legislative Reference Bureau with the duty of collecting and publishing data for the use of the members of the convention. The fifteen bulletins collected in this volume represent in part the work done in performance of the duty imposed by the statute.

The collected bulletins relate to the procedure of the Convention, the initiative, referendum and recall, the amending article of the Constitution, state and local finance, a short ballot, municipal home rule, eminent domain and excess condemnation, the organization of the legislative, judicial and executive departments, besides special bulletins on matters pertaining to local government in Chicago and Cook County. There is also a bulletin on social and economic problems, which deals in part with the housing problems, compulsory health and unemployment insurances, old age pensions and soldier bonuses.

Taken as a whole, the treatment of the subjects is impartial, and while, of course, there is a great difference in the value of the bulletins, many of them are real contributions to the subject discussed. This is especially true of bulletin number four, on Taxation, Appropriation and Budget Methods, and State and Municipal Debts. The main value, however, of the publication is that it collects in convenient and serviceable form considerable information on a number of subjects which should be considered by the members of a state constitutional convention, whether held in Illinois or elsewhere. We have serious doubts whether any member of the Illinois Convention has or will read all of the bulletins, but the useful members of the Convention are those who are interested in one or more definite matters and these we are quite sure have been much helped by the work of the Legislative Bureau.

In connection with the publication of this volume, it is interesting to note the difference between the method adopted in Illinois and that adopted in Pennsylvania to prepare for a constitutional convention. In Pennsylvania the Legislature of 1919 while not determining the question whether there should or should not be a convention to revise the constitution of that State, directed the Governor to appoint a Commission of twenty-five persons to study the present constitution, "in the light of modern thought and conditions," with a view of recommending necessary amendments or a form for a revised constitution. The Commission, which contains many of the foremost men of the State, has carried on its proceedings with all the formalities of a constitutional convention. Its secretarial force has collected a large amount of information in character very similar to the information collected by the Legislative Reference Bureau of Illinois, and the Commission itself has prepared a revised constitution elaborately annotated. It recommends that a constitutional convention be called and that this revised constitution be referred to the convention. If the Legislature of Pennsylvania follows the recommendation of the Commission and

calls a convention, the convention will have what no other American constitutional convention has ever had, not merely carefully collected material bearing on State constitutional problems but a complete constitution, prepared for its consideration by an officially appointed Commission. A state constitution deals with so many subjects, many of them of great difficulty, that it would seem necessary, in order to make it reasonably possible for a convention to do good work, that there should be prepared beforehand for its use, not merely carefully collected information such as is found in this bulletin of the Illinois Legislative Reference Bureau, but the text of the amendments or the new constitution recommended by an official body charged with the duty of their preparation and given sufficient time to perform the work with thoroughness.

William Draper Lewis

A MEMOIR OF SIR WILLIAM ANSON. Edited by Herbert Hensley Henson, Lord Bishop of Hereford, Clarendon Press, Oxford University, 1920, pp. 242.

JOHN ARCHIBALD CAMPBELL (Associate Justice of the U. S. Supreme Court., 1853-1861). By Judge Henry G. Connor. Houghton Mifflin Co., 1920, pp. 310.

The case system of the study of law adopted today in the leading Law Schools of America is well fitted to send into the profession men conversant with the leading cases and with the analysis of varied sets of facts. But the tendency all too apparent in the modern study of law is to regard it objectively, and to disregard the fact that the law has grown and can grow only through its great exponents among judges, advocates and teachers, and that knowledge of the lives of those men cannot fail to be a source of a better understanding of the past and of a greater aspiration for the future. The early growth of the Constitution is illuminated for both student and lawyer by such a book as Senator Beveridge's "Life of Marshall." Another book published within the last year, and throwing light on the development of American law over a period of forty years of the last century through the history of one of the great advocates of the time, is the "Arguments and Speeches of William M. Evarts."

The Memoir of Sir William Anson, and Judge Connor's Life of John A. Campbell, both received from their respective publishers, present in similar manner a background in which to place many of the cold facts and principles abstracted from textbooks and reported cases. The two books, each the life of an eminent lawyer, exhibit a difference in construction which is striking. The Life of Justice Campbell is written in the conventional biographical form by a single author, who is thoroughly acquainted and sympathetic with his subject; the Memoir of Anson though edited and partially written by the Bishop of Hereford, is for the most part a collection of sketches of the various periods of Sir William Anson's Life, written by friends and associates of his days at Eton, Oxford and the House of Commons, including such well-known men as A. V. Dicey, Sir T. Erskine Holland and James William Lowther, Speaker of the House of Commons.

In these two volumes we find all three forms of legal eminence. John A. Campbell, appointed to the Supreme Court in 1853 at the age of forty-two following a request made by the other justices to the President, was until his

resignation at the beginning of the Civil War, an able and vigorous judge. At the close of the war, in which he cast his lot with his native Southern state and occupied a position in the War Department of the Confederacy, he returned to the practice of law and for twenty-five years held a commanding position among the advocates at the bar of the Supreme Court. Sir William Anson, on the other hand, held no judicial position and practiced as advocate but little, devoting himself to the teaching of the law through his connection with All Souls College, Oxford, and through his books, "Law of Contract," and "Law and Custom of the Constitution," which were written by him for the student rather than the trained lawyer. The influence of "Anson on Contracts" needs no further proof than the fact that this book, originally published in 1879, has just been reprinted for the fourteenth time.

The life history of Justice Campbell furnishes an example of the results of thoroughness. He was noted both as judge and advocate for his complete preparation of cases and for his mastery of the sources of the law, especially among the early writers on the Civil Law. Among the cases which came before the Supreme Court in his period as Associate Justice, the best known is the *Dred Scott* case, in which Justice Campbell delivered an opinion concurring with the opinion of Chief Justice Taney and the majority of the Court. But Justice Campbell's claim to fame rests not so much upon his service as a member of the Court, as upon his later thorough and able arguments in many of the greatest cases before the Court between the Civil War and his death in 1889. The "Slaughter House Cases," (16 Wallace 36-1873), raising the question of the scope of the Fourteenth Amendment; *New York and New Hampshire v. Louisiana* (108 U. S. 76-1882), in which citizens of the former states sought to evade the Eleventh Amendment by assigning their Louisiana bonds to their states to collect for them; and the "Railroad Commission Cases," (116 U. S. 307-1886), were the cases in which his arguments were especially noteworthy.

The author on page 205 of the *Life of Justice Campbell* states: "Judge Curtis and Judge Campbell are the only American lawyers who, after service on the Supreme Court Bench of the United States, have returned to the practice of their professions." Mr. Charles Evans Hughes should be added as another Justice returned to advocacy from the Bench of the Supreme Court.

The record of the life of Sir William Anson discloses in him an aristocrat of that fine type which carried England through its crises for many centuries. Born of a family with a history of accomplishment in peace and war, Anson attended Eton and Balliol, Oxford, travelled for a time, was elected fellow of All Souls, admitted to the Bar and soon thereafter elected to a Readership of English Law at All Souls, succeeding Holland in that position. This was the deciding factor in his career. In 1881, he was elected Warden of All Souls, and thereafter until his death in 1914 continued to serve with his entire ability his college, the University, and later his country as member of Parliament for the University of Oxford. The wonder of it, to a reader of this collection of sketches of his life, is that a man whose life was so full of teaching, of fellowship with his associates, and of activity in behalf of those things in which he was interested, found opportunity for the research and study necessary to produce the books by which his name is known to lawyers throughout the English-speaking parts of the world.

Robert Dechert.

THE AMERICAN SUPREME COURT AS AN INTERNATIONAL TRIBUNAL. By Herbert A. Smith, M. A., of the Inner Temple, Barrister-at-Law; Professor of Jurisprudence and Common Law, McGill University, Montreal. Oxford University Press, New York, 1920. Pp. viii, 123.

This essay, as it is styled by the author, aims at giving in small compass a reasoned summary of the decisions of the Supreme Court of the United States which involve controversies between States, to the end that the difficult problems presented by a League of Nations or an international court may be considered in the light of the experience thus available.

There is, obviously, a general similarity between the scope and purpose of the book, and Professor Scott's more comprehensive studies regarding "Judicial Settlement of Controversies between States of the American Union"; and Professor Smith frankly acknowledges his indebtedness to Professor Scott.

As a short résumé of the subject, lucidly written, this little volume will commend itself to the layman. It is also entitled to favorable criticism because of its appreciation of the following factors which have contributed to the success of the American experiment; the caution with which the Court has exercised this jurisdiction, the establishment of its authority before it was necessary for it to adjudicate such controversies² and the body of law ready to hand with which it found itself provided.

Henry Wolf Bikle

"PROBLEMS OF PEACE AND WAR." (Being Volume V of the Transactions of the Grotius Society, 1919.) Sweet and Maxwell, London, 1920, pp. 154.

The Grotius Society is a British Society founded in 1915 "to afford facilities for discussion of the Laws of War and Peace, and for interchange of opinions regarding their operation, and to make suggestions for their reform, and generally to advance the study of International Law." Its meetings are held in London at 2, King's Bench Walk, in the Temple.

It is not surprising, in view of the objects above quoted, to find the League of Nations occupying almost the entire attention of the Society during the latter part of 1919. If any one supposes the only criticism of the Covenant has come from the United States, let him examine this volume. He will find here, not harangues, but the thoughtful, constructive and sympathetic views of lawyers and publicists. There are frequent illuminating passages, as when Sir John Macdonell says: "The Covenant of the League of Nations is in its final form a mere outline to be filled up in ways yet uncertain. People say, 'The League will do this,' and 'The League will act so and so.' The League will do nothing, the twenty-six articles may be merely a set of imposing promises, the entire organization may remain in a state of dignified torpor unless there is an educated public opinion demanding that it shall be made a reality;" or Sir Graham Bower: "I am one of those who are grateful that the American Senate has undertaken a criticism of the League of Nations. I am glad that they have made reserva-

¹ See U. P. Law Review, November, 1920, Vol. 69, p. 83.

² With the exception of *Chisholm v. Georgia*, 2 Dallas 419 (1793), which involves different considerations than those presented by controversies between States.

tions, and I greatly regret that the subject has not been adequately discussed in England. We followed a phrase blindly and accepted the phrase without looking carefully to see what is behind it. The League of Nations, as I understand it, is not an end in itself, it is merely a means to an end, and the end that we seek to attain is the avoidance of war. We all of us agree that unless we can find some means by which war can be averted, war will destroy civilization."

Article 10 is criticized, not with the rather vague idea that a member may thereby be bound to yield a portion of its sovereignty, but on the definite ground that "a nation may be content to rest under an obligation, onerous though it be, to join in guaranteeing the '*status quo*' where it is clear that the '*status quo*' is, under all the circumstances, just and reasonable. But supposing it should become clear that the '*status quo*' is unjust or unreasonable, how can all the Members of the League be expected contentedly to remain under a permanent obligation to support it?"

The general requirement of unanimity as a condition of action by either the Council or the Assembly is demonstrated to be a most serious defect. If eight of the nine Members of the League represented on the Council (including, of course, all the Great Powers) desired the League to take some action of great importance, but the remaining one of the nine Members of the Council (Greece, for example) objected to the proposed action, the undertaking would have to be given up unless the objecting member could be persuaded to assent. It is not voting power, but veto power, that is to be feared.

One has only to read the striking paper of Mr. C. A. McCurdy, K. C., to realize what vagueness of expression and confusion of thought have attended political discussion of the League of Nations in both countries, and how colossal an undertaking it is to transform what is now little more than an aspiration, into a working agreement among nations. "A League of Nations which will be effectual to rid the world of war will rest, not upon any agreement, but upon a creed." But the optimist will say it may not be impossible to combine the agreement with the creed.

The study of International Law has been sadly neglected in the United States. This may explain many things our generous kinsmen find it difficult to understand. Papers and discussions such as those of the Grotius Society powerfully stimulate interest in this increasingly important subject. The published transactions of the Society will always be found in the law library of the University of Pennsylvania; it is hoped the attention of students will be drawn to the desirability of studying them. Then, too, it is a long way from Philadelphia to King's Bench Walk and Fountain Court and this is one method of overcoming distance.

R. Stuart Smith

PRICES AND PRICE CONTROL IN GREAT BRITAIN AND UNITED STATES DURING THE WORLD WAR, by Simon Litman, Professor of Economics, University of Illinois. Preliminary Economic Studies of the War; Carnegie Endowment of International Peace. New York, Oxford University Press. 1920, pp. 331.

What were the principal changes in prices during the war period? What were the chief causes of these changes? What were the methods pursued by

the governments to regulate and stabilize the prices of necessities? And what were the results achieved by these methods?

The author has gathered from American and British price records a mass of data on the fluctuations in prices of staple articles. He has also brought together a compilation of views on the exact reasons for these fluctuations. He quotes economists, statisticians, bankers and journalists. The causes assigned cover the familiar fields of artificial scarcity, profiteering, the shifting of labor and capital to war industries, the breakdown of transport and means of communication, the lack of raw materials, the failure of fuel supply, labor disturbances, currency inflation, bond issues, extravagance in living, wasteful methods of production and to some extent the unintelligent handling of price regulation by government.

Among the methods of regulation described are: the voluntary fixing of prices by conferences between the principal producers and government representatives, the organization of producers and dealers by the licensing system combined with stimulation of production and the wholesale education of the public to cooperate with the licensing machinery and to practice economy, as exemplified by the United States Food Administration, the arbitrary fixing of a price by government authority, and the prosecution of profiteers. These have succeeded in about the order named.

The author concludes "that government price fixing during the War was guided little by economic principles. It was not uniform, either in its objects or in its methods, feeling its way from case to case. It might be termed opportunist." This is certainly a mild inference to be drawn from the materials presented. One might well wish that the author instead of contenting himself with this inadequate conclusion, had arranged his materials more systematically and had presented more valuable inductions from them. One such induction might be that the results of government price regulation during the War varied largely according to whether the attempt was made solely to reduce prices, or to stimulate production,—where attention was concentrated too heavily on mere reduction or maintenance of low prices, production was discouraged, artificial scarcity or panic created, and higher prices were forced because of diminished production. Where the attention was focused more clearly upon stimulating production the supply was enlarged even at the cost of an original increase in prices, and within a reasonable time prices were stabilized and larger supply created. If this method was combined with an intelligent and statesmanlike campaign of popular education along patriotic lines, a fairly satisfactory price control and an adequate supply were both secured. Mr. Hoover's experience seems to demonstrate this conclusively.

James T. Young

CASES ON THE LAW OF DOMESTIC RELATIONS AND PERSONS. (Third Edition). By Edwin H. Woodruff, Dean of the College of Law in Cornell University, Baker, Voorhis & Co., New York, 1920, pp. 753.

The first Edition of Dean Woodruff's collection of cases on this subject was published in 1897 and the second in 1905. In the fifteen years that have elapsed since the second edition there have been many changes, statutory and otherwise, in the law of the various states in regard to the subjects considered