

*The Economic Foundations of Society.* By ACHILLE LORIA. Translated from the second French edition by LINDLEY M KEASBEY. New York: Charles Scribner's Sons, 1899. 8vo. pp. xii + 385.

THE second French edition of the *Economic Foundations of Society*, which Mr. Keasbey uses for his translation, is practically a new book. In response to a demand for a new French edition, Professor Loria rewrote and expanded what was originally an inaugural dissertation for the University of Sienna. Coming thirteen years later, it represents his more mature views.

This thesis is, briefly: all social relations are economic in their origin. Sociology can only assume a scientific character by recognizing this dependence. The most fundamental economic phenomena are those which arise under the condition of free land. Beginning with these, Professor Loria traces the evolution of society from a pre-capitalistic state to a future "final state," which will also be non-capitalistic. The intermediate state is divided into three periods, of which we are in the last; the slave economy, the serf economy, and the wage economy. Capitalistic property presupposes the exclusion of the masses from the soil. To do this two methods are employed: first, economic means, which the author does not analyze; second, the recourse to what he calls connective institutions, whose function seems to be that of police in keeping "hands off." These institutions are morality, law, and politics—"organic products of capitalistic property." A large part of the volume is devoted to the proof of this last point.

The book is one which will doubtless provoke considerable controversy. In spite of his modestly deprecating remarks in the preface, Mr. Keasbey seems to have succeeded well in preserving the clearness of style of the French edition.

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*The Commerce Clause of the Federal Constitution.* By E. PARMALEE PRENTICE and JOHN G. EGAN. Chicago: Callaghan & Co., 1898. 8vo. pp. lxxv + 386.

THE history of the Supreme Court of the United States is divided by Mr. Bryce into three periods with reference to the political

influences which have dominated it from time to time. The first period which closes with the death of Marshall, was marked by a strong nationalistic tendency. In the second period, which closes with Taney's death, an opposite tendency prevailed, while in the third period, which embraces the history of the court since the Civil War, the national spirit is again prominent.

The history of the court is equally interesting when the character of the questions coming before it is considered. It is true that it has at all times been occupied with questions involving all phases of constitutional law, but the relative importance of the different questions as judged by the number of cases arising under them at a given period has varied greatly from time to time. Before the Civil War, the constitutional decisions of the court related chiefly to the relations between the federal government and the states, and to the constitutional limitations on the states. This is the period of *Chisholm v. Georgia* and *Cohens v. Virginia*, of *Fletcher v. Peck* and *Dartmouth College v. Woodward*, of *Craig v. Missouri*, *Briscoe v. The Bank of Kentucky*, and of the *Charles River Bridge Case*. Among the interpretations of the commerce clause made before the Civil War, only two (*Gibbons v. Ogden* and *Brown v. Maryland*), deserve to rank with the great decisions above mentioned. But since the Civil War, no clause, except possibly the Fourteenth Amendment, commands more attention. Its growing importance is well illustrated by the number of cases arising under it. Before 1840 the court had had to construe it in only five cases. In 1860 the number had increased to twenty; in 1870, it was thirty, in 1880, seventy-seven, in 1890, one hundred forty-eight, and at present it is at least two hundred thirteen. In other words, it is the application of the constitution to economic relations which now occupies the attention of the court.

The present work is a comprehensive treatment of the judicial interpretation of the commerce clause. The first chapter is devoted to the history of the clause and of the development of the accepted rule as to the exclusiveness of the commercial power of Congress—a rule which was first authoritatively laid down in *Cooley v. The Wardens of the Port*, although it had previously been formulated by Mr. Justice Woodbury in *The License Cases*. Then follow important chapters on definitions of commerce, distinction between domestic and interstate commerce, control of navigable waters, pilotage, port regulations, quarantine, inspection laws, and other local matters, regulation of carriers,

prohibition upon the states, taxation, regulation of freights and fares, regulation of corporate franchises, the federal legislative power, and relations with the Indian tribes.

The longest and in many respects the most important chapter of the volume is that upon Taxation. The question of the power to tax is at the bottom of many of the cases arising under the commerce clause. Taxation is the agency which the states have most frequently employed for the purpose of circumventing the power of Congress. The course of reasoning which led the states into this course is indicative of the difficulty of the question presented to the courts for determination, and it is little wonder that the decisions constantly conflict and make it almost impossible to deduce positive rules. The authors of the present volume have made a diligent study of the cases, and treat the subject from both the historical and the logical standpoint. If they do not speak with certainty as to the law, the fault lies less in them than in the conflicting decisions of the courts.

All in all the volume must prove a very useful treatise to all who are called upon to consider the commerce clause of the constitution. In logical arrangement, in amplitude of citation, in accuracy, and in scholarly appreciation of the subject, it leaves little to be desired.

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