

Of especial value are the chapters which present the historical summary of modification and growth in our institutions. These are full of historic data and references which make the book of great value to the student. This abundant material is supplemented, furthermore, by an appendix containing the Corrupt Practices Acts of Great Britain and Massachusetts; the Tramways Act of Great Britain, and the Wisconsin Act to Regulate the Granting of Municipal Franchises; Statistics and Tabular Statements of Laws Concerning Capital and Labor, Debtor and Creditor, Taxation, etc.

The original material is of considerable value and in presenting it the author has saved the student a vast amount of labor. In the arrangement and analysis of the material, the book is faulty. It is a strange admixture of history, political science, economics, law, sociology, etc. There is frequently a confusion of technical terminologies, while to the specialist it must often appear quite elliptical. The historian would criticise the chapter devoted to colonial government while the general reader will find it difficult to obtain a clear idea of the forces which evolved our system. The growth of the unwritten constitution is effectively presented and its importance thoroughly appreciated.

The modifications of private and public law as a result of popular co-operation, the numerous provisions against the arbitrary use of legislative power, the legislation relative to Capital and Labor, and Debtor and Creditor, are all summarized in a way which shows an enormous amount of detailed study. The results will prove of greatest service to speakers and students who may not have time to consult the original sources. The limits of the work do not permit of an exhaustive or even a fair treatment of such problems as taxation, control of corporations, etc., and it is but natural that the treatment given should misrepresent the author's general attitude with reference to such serious problems.

The special value of the book lies in the objective presentation of our early institutional development by means of original material.

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The Provincial Governor in the English Colonies of North America.

By EVARTS B. GREENE, Professor of History in the University of Illinois. (Harvard Historical Studies, Vol. VII.) Pp. x, 292. Price, \$1.50. New York: Longmans, Green & Co., 1898.

All students of American colonial history will welcome this thorough and scientific study of one of the most important subjects in the field of the British colonial administration prior to 1763. The

author has intentionally limited himself to a comparative study of the office of governor of the so-called provincial governments, "a term including proprietary as well as royal governments," as distinguished from the office of the elective executive in the corporate colonies. In the corporate colonies, such as Massachusetts prior to 1684, Connecticut and Rhode Island, the executive stood on an essentially different footing. In a brief but comprehensive introductory chapter, devoted to the evolution of the provincial government, the gradual tendency of the royal province to supplant all other forms of colonial government is clearly shown; thus, after 1729, eight of the colonies which later became a part of the United States, had been brought into direct relation with the crown. This was accomplished only after many trials, experiments and controversies, and the repeated efforts of the Board of Trade. The second chapter deals with the evolution of the provincial executive through its various forms, from the collegiate to its ultimate type, the single executive, appointed by the crown and assisted and checked by a council appointed by the same power, but to a large degree dependent upon the governor. In nine succeeding chapters the author presents, in detail, a discussion of the position, functions and prerogatives of the governor, both as agent of the home government, and in his relations with the other organs of government in the colonies, namely, the council, the judiciary and the assembly. In these chapters may be found careful and impartial answers to such important questions as: What were the qualifications of a provincial governor? What sort of men were appointed? What kind of service were they expected to render directly to the crown and indirectly to the colonists? How were their actions guided and controlled by the home government, or checked and thwarted by the colonists?

The method by which appointments, in some instances, were secured "were similar to those employed in the other departments of the British public service in the days of the Whig ascendancy." Thus we find the Board of Trade, which formally recommended appointments to the king in council, stating in 1715 that "governments have bin sometimes given as a reward for services done to the crown and with design that such persons should thereby make their fortunes. But they are generally obtained by the favour of great men to some of their dependants or relations, and they have bin sometimes given to persons who were obliged to divide the profit of them with those by whose means they were procured. The qualifications of such persons for government being seldom considered." This severe but just indictment seems to have led to little change in

practice, and the result of this policy might well serve as a warning to nations of the present day about to enter upon colonial enterprises. "The main clue to a correct understanding of the powers of the provincial governor," writes the author, "is to be found in the vice-regal character of his office. He was the agent, the representative of the crown."

As such, the governor's position was far more complex than is the case with the modern executive of an American Commonwealth. In fact it required the entire colonial period to differentiate the government into its several departments. Thus the colonial governor, in addition to his purely executive functions, held close and important relations to the judiciary and the legislature, either through his being an integral part of the same or owing to the fact that these departments depended so largely upon him for their existence. His power over the legislative branch, however, was in large measure counteracted and checked by the power over the purse to which the Assembly in the several colonies tenaciously clung. Three chapters are devoted to a discussion of the relations between the executive and the legislative departments; full as this is, we could wish that it had been extended to a more elaborate consideration of the contests between the two departments. The provincial governor had a difficult and delicate position to fill.

The governor and the assembly represented opposing principles and interests. The governor, as the agent of the imperial government and representative of the king, stood for the monarchical principle and British interests, while the assembly, as the representative of the people, stood for democracy,—toward which frontier communities naturally tend,—and for what they regarded as "the rights of Englishmen." Thus it is seen that the conflict was inevitable, and must continue until either the executive or the assembly was definitely master. The executive, in the long run, proved to be the weaker and the assembly issued from the struggle victorious.

Although the work is based upon a study of the printed sources only, fortunately these were both sufficiently numerous and typical to enable the author to present a picture of the office of provisional governor, which, in all its essential features, appears to be life-like and accurate. It is not too high praise to say that Professor Greene's monograph is an excellent example, both in its general character and in the methods employed, of the new historical school, and is deserving of its place in the Harvard Historical Series.

American scholars, until recent years, have regarded the history of the colonial period too exclusively from the colonial point of view, and too little from the British or imperial side. It is now being

realized that the imperial policy, the organs of colonial administration and the institutional and organic connection between the various parts of the empire, must be taken into consideration before we can hope adequately to understand the history of the period.

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Lectures on the Fourteenth Article of Amendment to the Constitution of the United States. By WILLIAM D. GUTHRIE. Pp. xxviii, 265. Price, \$2.00. Boston: Little, Brown & Co., 1898.

The most interesting constitutional questions which now come before the United States Supreme Court are those connected with the interpretation of the Fourteenth Amendment. No term passes in which the court is not called upon to construe the sweeping phrases in which the statesmen of the Reconstruction Period attempted to embody the results of the Civil War. At a single term (October Term, 1896), the Amendment was discussed in twenty-one cases, fifteen of which turned upon its interpretation. At the following term a most important decision was made. The opening clause defining citizenship was applied to the case of a child born in the United States of Chinese parents, and the child was held to be a citizen even though his parents cannot be naturalized. (United States *v.* Wong Kim Ark, 169 U. S. 649.) The other parts of the Amendment, particularly those relating to due process of law and the equal protection of the laws, are less capable of definitive interpretation and may be expected to occupy the attention of the court for a long time to come.

It is altogether too early to expect any elaborate and well-rounded treatise upon this the newest branch of our constitutional law. The decisions are numerous and many of them conflicting. But in the meantime discussions of decisions rendered and of the principles underlying them will form an important part of our legal literature.

Such a work is Mr. Guthrie's volume. It is made up of lectures which were delivered before the Dwight Alumni Association of New York. The lectures are five in number. The first relates to the history of the Amendment, and in refutation of the views as to its scope set forth by Mr. Justice Miller in the Slaughter House Cases, extracts from the debates in Congress upon the adoption of the Amendment are given. A considerable part of the chapter is devoted to a eulogy of our judicial system which has no apparent bearing upon the subject under discussion. The second lecture is entitled