

## SOME PUBLICATIONS

*John Marshall, Life, Character, and Judicial Services.* As portrayed in the Centenary and Memorial Addresses and Proceedings throughout the United States on Marshall Day, 1901, and in the Classic Orations of Binney, Story, Phelps, Waite, and Rawle. Compiled and Edited with an Introduction. By JOHN F. DILLON. Chicago: Callaghan & Company. 1903. Vol. I, pp. viii, 528. Vol. II, pp. 565. Vol. III, pp. 523.

No more characteristic or eulogistic tribute was ever paid in this or any other country to the memory of an illustrious public man than that involved in the commemoration of the centennial of John Marshall's installation as Chief Justice of the Supreme Court of the United States, February 4th, 1801. In response to a request made by the American Bar Association, the day was observed at the national capital, and in thirty-eight of the States of the Union, and at assemblages of various kinds, spontaneously called in response to this suggestion, addresses were delivered in which calmly, argumentatively and conclusively the life, character, and genius of the great Chief Justice were described and extolled. But this general tribute was significant of something of larger value than the personal greatness of one man. It was significant of the completion of a century of constitutional development in the United States, the ultimate vindication of the principles on which the federal government was founded, and the final demonstration of the success of democratic institutions, resting for their security on the respect for law and good government prevailing with the body of the people of this nation. It was not a tribute to military glory nor to regal power, but a spontaneous intellectual recognition of the greatness of character, faithful services, and eminent attainments of one whose claims to recognition as a great man among the leaders in the world's history rested upon the administration of the duties and the discharge of the



responsibilities of a judicial office in which there was no opportunity for distinction, save as it was afforded by the wisdom, learning, and judgment involved in pronouncing the law of the land, that system of law recognized in and guaranteed by our constitution, and resting for its effective enforcement on the acquiescence of the people governed. Chief Justice Marshall's fame was already established, and needed not this volume of concurrent tribute to make it known. But the spontaneous and unanimous response to an appeal which did not proceed from any formal or commanding source, but from those who were recognized as proper custodians of the dignity and authority of the law as a rule of conduct, rather than the command of a sovereign, was most significant as to the preponderating influence in the government under which it is our privilege to live.

These volumes are, therefore, of great value, not only for what they contain, but for what they typify, and they constitute a monument, or, as it were, a milestone of a significant and important epoch, not only in our national history, but, as we may justly believe, in the history of civilization. They, however, are not merely in themselves a monument or a mark, but they contain a most interesting and fundamental exposition of our whole theory of constitutional government; for Marshall's announcement of the principles in accordance with which the federal constitution must be interpreted, and the results of such interpretation, have been accepted by all as a part of our fundamental law, and it is not derogatory to the credit to which the great Chief Justice is entitled, but rather in enhancement of it, that he is recognized, not as the originator, but merely as a careful and conscientious expounder of the great system of government which, as the result of historical development and human wisdom combined, was embodied in our constitutional system. No one could speak with better right and more conclusively than those whose addresses are included in these volumes. Among them it will not be invidious to mention Justice Gray, Judge Dillon, Wayne MacVeagh, Professor Thayer, Richard Olney and Bourke Cockran. By preserving the most significant portions only of the addresses which



are included in the compilation, and at the same time giving some matter from each of the many which were delivered, the editor has constructed a work which presents at once many views of the questions which are suggested by the life and services of Chief Justice Marshall, evidences the wide extended recognition of his services, and embodies practically all that the most careful biographer would be able to collect as to his life. The addition of the monumental orations of Horace Binney and Justice Story, delivered soon after Marshall's death, the address on Marshall delivered in 1879 by Edward J. Phelps before the American Bar Association, and the addresses of Chief Justice Waite and William Henry Rawle in connection with the unveiling of the statue of Marshall at Washington in 1884, make this work a practically complete embodiment of that which those best qualified to speak on the subject have had to say with reference to John Marshall.

The preparation of these volumes is itself a monumental work, and another evidence of the devotion of Judge Dillon to the system of jurisprudence of which he has been so eminent an expounder as lawyer, judge, lecturer, and author. That he was willing to undertake so great a task, and give such valuable and painstaking service to the presentation of that which others have said by way of tribute to the first great Chief Justice, entitles him to our deepest gratitude. His work has been worthily supplemented by that of the publisher, and nothing is left to be desired in the embodiment in permanent and accessible form of the national tribute paid to the memory of Marshall on the centennial of his elevation to the office of Chief Justice.

SUPREME COURT CHAMBERS  
DES MOINES

EMLIN McCLAIN

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*Texas.* By GEORGE P. GARRISON. Boston: Houghton, Mifflin & Co. 1903. Pp. v, 320.

Of the commonwealths once included within the Spanish province of Louisiana, Texas alone has had an independent existence; its history has, accordingly, a certain unity not to be found in that of States



which have been carved artificially out of the national domain. For this, if for no other reason, the volume on Texas is a welcome addition to the American commonwealth series. The author has preferred to call his contribution to the series a study based on the history of Texas rather than a history proper. It has been his aim to give "a picture of what Texas is and of the process by which it has become such." This prefatory promise lacks something of complete realization. The experience of the people of Texas, which the author professes to recite, proves to be almost exclusively political experience; and the reader will thumb the pages of the volume in vain for the social and institutional aspects of the history of the southwest. Except for a brief chapter on Spanish modes of occupation, there is hardly a suggestion of the economic and social life of the early colonists. The advent of the "Anglo-American" is heralded and his political mission duly emphasized; but where he came from, and why he came, and what social and political institutions he brought with him, and how these institutions were adapted to a quasi-Spanish environment, the reader is left to surmise. In his first chapter the author assures us that Spanish influences left "ineffaceable marks" on the institutions of Texas, but just what these marks are, does not appear. We are told that no feature of Texan history is more instructive than the development of the public land policy, but no further information is vouchsafed, save in a brief reference to the public land reservations for educational purposes.

Had the volume professed to be no more than a sketch of the political history of this vast commonwealth of the southwest, the reader would pronounce it a meritorious piece of work, since it bears evidence of laborious study of the original sources and patient accumulation of data at first hand. If the treatment of Texan history under Spanish rule seems disproportionately long, the fault, if it is such, may be readily condoned, for the writer has imparted thereby a decided old-world flavor to Texan life and created an admirable setting for the study of later political changes. Three short chapters are made to suffice for the history of Texas since annexation to the



United States. Reconstruction days are passed over with a laconic brevity that suggests volumes of pent-up feeling. "Texas of To-day" is the title of a concluding chapter of somewhat encyclopedic character. Population, resources, education, and industries receive here a brief consideration; but recent experiences connected with the "free grass" movement and the farmers' alliance are passed over in silence.

While the author has admirably preserved the attitude of impartial critic throughout his study, there are, nevertheless, some statements, here and there, which are open to question. We fail to see on what grounds the inference rests, that Texas "would likely soon have become a commanding figure in its role of nationality." (p. 228). Frequent bickerings with France and England and continued hostilities with Mexico would seem to be sufficient evidence to the contrary. Statistics will hardly bear out the contention that Texas is "the one southern State that has really grown by immigration." (p. 305). The remark that "there are few States whose people are so cosmopolitan" (p. 306), will hardly pass unchallenged. The author's enthusiastic admiration of the defense of the Alamo as "the superlatively dramatic episode in the history of America" (p. 68) and as the most heroic event in American history," (p. 207) is not likely to kindle corresponding emotions in American readers. It is instructive to find Bancroft, in his History of Mexico, averring that "the blood, both of Mexicans and Texans, shed at Alamo was a useless sacrifice."

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GRINNELL

ALLEN JOHNSON

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*The Government of Maine.* By WILLIAM MAC DONALD, LL. D. New York: The Macmillan Co. 1902. Pp. 263.

In 1901 the Macmillan Company began the publication of a series on our State governments, entitled the *Handbooks of American Government*, to be edited by Professor Lawrence B. Evans of Tufts College. The volume before us is the third of the series to be published, having been preceded in 1901 by Professor McVey's *The Government of Minnesota*, and in 1902 by Professor Morey's



*The Government of New York.* Two forth-coming volumes are announced as "in preparation:"—one on *Ohio*, by W. H. Siebert, A. M., and one on *Michigan*, by Webster Cook, Ph. D.

The present volume "begun at Bowdoin College" was "finished at Brown University" by one well equipped for the task. It is a small volume of 263 pages, of which 188 make up the body of the text, 75 being given to four appendices.

The field covered is the whole range of State and local government, and, if the book is small, we are reminded by the author that he has "tried to keep in mind the needs of students in the high schools and academies, for whose use it is particularly designed, and to avoid overloading the text with relatively unimportant details." This quotation explains the aim of the whole series as well as of this one volume.

The first two chapters are given to a historical sketch of Maine as Province, District, and State, covering a period from 1603 to 1903. The history of Maine as a District of Massachusetts is certainly interesting, and here we wish the author might have been fuller. What he tells us is good, but he does not tell all. The admission of Maine in 1820 is spoken of, but that does not tell the whole story. Maine had been in the Union since 1789. We are not told that the people of Maine ratified the constitution in 1788 and voted for president from 1789 to 1820. The event of 1819-20 was rather a division of Massachusetts into two States. We are not told the exact reason why the people of the District wished to be separated from Massachusetts proper.

An exposition of the central government of the State is prefaced by a discussion of the terms of admission to the Union, constitution-making, amendment of constitutions, declarations of rights, etc. Then follow chapters upon local government, nominations and elections, and the administration of justice. An interesting chapter on education explains the State system from district school to State University. Under the caption, "The Protection and Comfort of the State," are discussed the militia, State charities, correctional institutions, the



prohibition law, etc. The final chapter treats of revenue and expenditure.

A valuable part of the book consists of four appendices. One is chronological, one statistical, while a third gives a very helpful analysis of the State and local government in outline. A fourth contains fifty pages of valuable documentary material including the "Grant of Maine to Gorges and Mason," the "Second Charter of Mass., 1691," the "Articles of Separation," "Act of Cession," "Act admitting Maine into the Union," "the Constitution of Maine," etc.

Each chapter is prefaced by a list of references, all of which taken together make up a working bibliography on the government of Maine.

The plan of the whole series, which is to give in brief space clear and concise accounts of the every day workings of our State and local governments, as well as the execution of the volume in hand, is to be highly commended.

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*The Government of New York. Its History and Administration.*  
By WILLIAM C. MOREY. New York: The Macmillan Co. 1902.  
Pp. xiii, 294.

This little volume appears in the series, *Handbooks of American Government*, edited by Dr. Lawrence B. Evans, Professor of History in Tufts College. The idea of which it is the embodiment is one which is rightly winning its place in the minds of educators. It is in reality the substitution of the inductive for the deductive methods of reasoning in the study of politics and history.

The attempt means that more attention is to be paid to the practical workings of government, hence the *history* of government is to become more prominent. This will enable the student to familiarize himself with the facts which heretofore have been used mainly by the teacher to work out the principles which the student has accepted, because they were given him. The method here laid down can not



help but make clearer thinkers of our students of government because of the added data by which to correct false deductions.

This book, like all of Professor Morey's efforts, is a model of scientific arrangement and analysis. In this respect it may well serve to guide workers in similar fields elsewhere. It is divided into three parts, namely: *The Growth, The Structure, and The Work of the Government*. The first part traces the historical development of institutions from the landing of the Dutch to the final revision of the Constitution in 1894. The second part treats of the Relation of the State Constitution to the Federal Constitution, the Relation of the Citizen to the State, and the Structure of State and Local Government; while the third part treats of the Functions of the Organs of Government in the Administration of Justice, the Protection of the People, the Support of Public Education, the Supervision of Charities and Corrections, the Control of Economic Interests, and the Management of Public Finances. There is added an appendix containing excerpts from the most important and useful documents, together with other important material which the teacher finds useful and the student finds interesting.

The work has been carefully done and the student and teacher will find it a valuable guide and an extremely suggestive work for an introduction to the more general and philosophical study of the theory of our institutions.

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*Exploration of the Great Lakes in 1669-1670.* By DOLLIER DE CASSON and DE BREHANT DE GALINEE. JAMES H. COYNE, editor and translator. Part I of Vol. IV of the Papers and Records of the Ontario Historical Society. Toronto: 1903. Pp. xxxviii, 90.

When Champlain, in 1609, set out from Quebec with a party of Montagnais warriors to explore the country to the south of the St. Lawrence he little realized the effect which that expedition was to



have upon the development of the French empire in North America. While his primary object was exploration, he was bound, in order to accomplish his purpose, to espouse the cause of his allies and was thus led into an unprovoked attack upon an Iroquois village near Ticonderoga. An easy victory won for New France only the lasting hostility of the Iroquois confederacy. These formidable adversaries were for the next half century able to check all attempts of the French to occupy the country to the south of the St. Lawrence and even rendered traffic along the upper course of the river too hazardous to be profitable. The south being thus closed and the regions to the north being uninviting, French enterprise naturally turned westward, following the upward course of the Ottawa.

By this route the Great Lakes were first reached. The shores of the fresh water sea (*Mer Douce*) were quickly explored to the northward and westward from the Georgian Bay of Lake Huron until the vast areas of Lake Superior on the one hand and of Lake Michigan on the other seemed for a time capable of absorbing the combined energies of missionary, fur-trader and prospector. Thus it happened that the French were established at the head of Green Bay and at Chequamegon Bay at a time when Lake Erie and Lake Ontario were known only through vague reports furnished by vagrant Indians, and the forest trails of Wisconsin were familiar to the Jesuit and the *coureur de bois* while western New York was still *terra incognita*.

The success of the Iroquois in exterminating or scattering neighboring tribes had, by 1665 (*circa*) left them quite isolated in the midst of a vast hunting preserve comprising the territory of their former foes. They thus lost their former advantageous position in which they had acted as intermediaries in the fur trade carried on between the Dutch and the tribes in the interior of the continent. Peace with the French was now their only recourse, and thus travel along the upper St. Lawrence and the Lower Lakes became subject to only the ordinary hazards.

Jesuit and Sulpitian missionaries at once entered the newly opened region, and were immediately followed by emissaries of the state.



A new passageway to the northwest was demanded, more practicable than that by way of the Ottawa. Pere traced out a portage route from Gandatseteigon, on the north shore of Lake Ontario, to the Georgian Bay. Jolliet was sent to locate the copper mines in the northwest, of which there was already much talk. Upon their return to Montreal the two explorers descended the St. Clair and Detroit rivers together, followed the north shore of Lake Erie for a long distance, then struck out overland for the head of Lake Ontario. Here they were met by the party in which we are more immediately interested, that of La Salle and the Sulpitians De Casson and Galinee.

Having left left Montreal two months previously (July 6, 1669) La Salle's party had ascended the St. Lawrence, passed the Thousand Islands, coasted the south shore of Lake Ontario, entered the Niagara River, noting the roar of the distant cataract, and had finally reached the western extremity of the lake. The meeting with Jolliet at this point completed the solution of the problem of the Great Lakes. There was, to be sure, the channel of the Niagara, which had not yet been traced; but a great geographical fact had been demonstrated—the continuity of the water-way from Lake Michigan or Lake Superior to the Gulf of St. Lawrence.

After Jolliet and his companions had taken their leave, the party, which from the first had evidently been divided both as to its leadership and its purposes, actually separated. La Salle, with a few of the company, seems to have repassed the mouth of the Niagara and then struck off across western New York to the sources of the Ohio, following that waterway for a considerable distance; though of this we have no certain information. As for the Sulpitians, they made their way by forest trail and portage to Lake Erie, and after wintering near Port Dover, continued their difficult voyage along the north shore, ascended the Detroit and St. Clair rivers and at last reached Machilimackinac. Thence they returned to Montreal by the old Ottawa route, to find that they had long been given up for lost.

Such is the "setting" of the work under review. Besides the narrative of Galinee, of which the French original and the English



version are given on opposite pages, it includes the *proces-verbal* by which possession was taken of the lands of Lake Erie in the name of Louis XIV., and Galinee's map with its legends. There is also an introduction of twenty-seven closely printed pages, replete with interesting historical and bibliographical matter. A second part, to contain appendices, explanatory notes, and an alphabetical index, is promised at an early date.

It is to be hoped that the present interest in the detailed history of western discovery and exploration will not abate until every extant document which has relation to the subject has been made as readily available as the important one here treated now is. It can hardly be expected that the work will be as well and as thoroughly done in every case as in this.

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*The Loyalists in the American Revolution.* By CLAUDE HALSTEAD VAN TYNE. New York: The Macmillan Co. 1902. Pp. 360.

This is a book by a scholar and for scholars, and yet it is not without some interest for the general reader. As the author says, "The formation of the Tory or Loyalist party in the American Revolution, its persecution by the Whigs during a long and fratricidal war, and the banishment or death of over one hundred thousand of the most conservative and respectable Americans is a tragedy rarely paralleled in the history of the world."

Probably every teacher of American History has asked himself, "Why in our text books and even in our larger histories, do we find so little on the Tories?" Is it because our historians do not dare to tell the truth about the matter? This may have been true in the past but it certainly is not true to-day. If it is because the information is not in a form where the historian, especially the compiler of a school text-book, can get at it, then Dr. Van Tyne has rendered valuable services to his fellow workers.

It should be said by way of parenthesis that while an examination



of a dozen text-books shows nothing like an adequate treatment of the Loyalists, the more recent ones, especially Channing's, show an improvement. Prof. Hart's forthcoming text, if we may judge by the outline, shows a still larger proportion of space given to the subject.

*The Loyalists in the American Revolution* should be classed under scientific history. The author is fair in his selection of incidents and illustrations. In his power to resist temptations to digress, in his power to leave out all comparisons with events of the present which are analogous but almost always misleading, in his power to resist the temptation to generalize, in all these, Dr. Van Tyne shows himself marvelously strong.

It has been claimed that the book is lacking in style, certainly it is lacking in interest except that which is inherent in the thrilling events narrated. But it remains to be demonstrated whether a man can be strictly scientific and at the same time interesting to the general reader. That Dr. Van Tyne resisted at least one temptation to digress for the sake of making his book interesting is shown by his statement, "In the preparation of a work on the Loyalists there was a temptation to go over the usual ground of a history of the Revolution, and doubtless, the dramatic interest could have been attained only by so doing; but such a treatment would have greatly increased the volume of this work, and would have buried the real contribution to our knowledge of the American Revolution in a mass of well known facts concerning campaigns and historic personages." Dr. Van Tyne has made a distinct and valuable contribution to American history. He has collected, read, and organized in the utmost spirit of fairness, and with a scholarship broad enough to see and classify according to true but subtle relations, a mass of material hitherto buried, as local history is liable to be, in the most unexpected places. From now on it will be easy for his fellow workers, whether teachers or writers, to bring up a long neglected topic—the Tories or Loyalists.

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