

to time. Adopting the view that the individual states were sovereign under the Articles of Confederation, the writer finds nevertheless that their sovereignty was surrendered when they ratified the Constitution and that a new union was established, the constituent members of which could not secede. The fourth chapter is a particularly clear statement in brief compass of the theory and practice of secession, coercion, and reconstruction.

In a series of illuminating chapters, the writer discusses such important phases of our constitutional system as "The Supremacy of Federal Law", "Federal Control of State Governments", "Federal and State Autonomy", "Federal and State Powers", and "Coercion of State Action". Throughout he sustains his argument by extensive citations from the opinions of the Supreme Court. Especially valuable are the chapters dealing with the questions growing out of the annexation of territory and the relations with our new dependencies. In treating the Insular Tariff Cases the argument of the dissenting justices is stated *in extenso*, since the writer shares with many the belief that the opinion of the minority is the better law and may yet prevail.

It is a pleasure to commend this little volume for its clear arrangement, its lucidity of statement, and its accuracy. In saying (p. 166) that Congress has exercised "to but a comparatively slight extent" its power to control the election of members of Congress, the author seems to have overlooked the fact that Congress has exhausted its authority over the election of senators (*U. S. Statutes at Large*, XIV, 243). The Dred Scott case was decided in 1857, not 1856 (p. 243); Ohio was admitted to the Union in 1803, not 1802 (p. 265); and Utah in 1896, not 1894 (p. 266).

LAWRENCE B. EVANS.

*The Police Power, Public Policy, and Constitutional Rights.* By Ernst Freund, Professor of Jurisprudence and Public Law in the University of Chicago. (Chicago, Callaghan and Company, The University of Chicago Press, 1904, pp. xcii, 819.) Professor Freund has chosen an elusive subject. What is the police power? The courts have been cautious in setting bounds to it by attempts at definition. In the License Cases (5 Howard's Reports, 583) Chief-justice Taney remarks that the police powers of a state "are nothing more or less than the powers of government inherent in every sovereignty to the extent of its dominions". Professor Freund would differentiate it from other governmental powers, as being that which aims directly to secure and promote the public welfare, and does so by restraint and compulsion with respect to the use of liberty and property (pages iii and 3). It may be doubted whether the distinctions thus suggested exist. Government exists legitimately only to promote the public welfare, and its laws are imperfect unless they carry some sanction tending to restrain the liberty or take from the property of those who may violate them. The essence of the police power, he says subsequently (pp. 6, 31), is

that it prevents wrong-doing by narrowing common-law rights through conventional restraints and positive regulations not confined to the prohibition of wrong-doing. This is a helpful suggestion. The object of the power is thus made the anticipation of a social wrong and the restraining of the individual in the interest of society from doing, under certain circumstances, what he would have a right to do under other circumstances. Its scope is presented as limited in the United States more narrowly than elsewhere by Constitutional provisions; thus excluding from it, in the main, moral, intellectual, and political movements, and whatever belongs to the realm of the ideal (pp. 9, 11, 13). Nevertheless, legislation for the special protection of the workman, in prescribing short hours, etc., may, he argues (p. 17), be vindicated as promoting a new conception of social justice, consisting in the neutralization of natural inequality by the power of the state. Little is said of the mass of police legislation in the colonial era, and comparatively little of the laws of either ancient or modern Europe.

As compared with Tiedeman's work on the same topic, Professor Freund's is both more elaborate and more philosophic. That of Alfred Russell (*AMERICAN HISTORICAL REVIEW*, VII, 176) was mainly confined to American judicial decisions on measures of state police. The book treating the subject broadly from the point of view of a historical student is yet to be written.

SIMEON E. BALDWIN.

## NOTES AND NEWS

### GENERAL.

George Stephen Goodspeed, professor of comparative religion and ancient history in the University of Chicago, died in Chicago, on February 17, 1905, aged forty-five years. He was graduated from Brown University in 1880. For three years (1888-1891) he was assistant in the Semitic department of Yale University, from which institution he received the doctorate in 1891. In 1891-1892 he was a student at the University of Freiburg (Baden). He was associated with the University of Chicago from its foundation, first as associate professor and then as professor of comparative religion and ancient history. The task which he undertook, the teaching at once of ancient history and of the comparative study of religions, formed a combination unusual in the arrangements of American education. But his cultured mind and catholic sympathy enabled him not only to teach both with remarkable skill and efficiency, but to cause each to illuminate the other and both to serve in a high degree the diverse interests of the departments concerned. He was an accomplished scholar and a devoted teacher, and both as teacher and writer he exerted a large influence upon the teachers of the west by familiarizing many of them with the results of modern labors in ancient fields. He was a member of the editorial board of the *Biblical World* and of the *American Journal of Theology*. His most important writings include: *Outlines of Lectures upon the History of the Hebrews*, 1898; *Israel's Messianic Hope*, 1900; *Babylonians and Assyrians*, 1902; *A History of the Ancient World*, 1904.

W. Fraser Rae, known to historical students especially by his writings concerning Sheridan and by his attempt to identify the author of the "Junius Letters", died at Bath, England, on January 22.

Among the recent deaths which will be especially regretted by historical students is that of Paul Tannery, distinguished for his work on the history of the sciences, and that of Henri Michel, who occupied himself especially with the history of political doctrines. Both of these scholars were at an age when much could still be expected from them; Michel's doctoral thesis, on *L'Idée de l'État*, was published but ten years ago.

Edward John Payne, the well-known writer on early American history, was drowned December 26, 1904, at Wendover, England. His best-known work is his *History of the New World called America*. He contributed to the first volume of the *Cambridge Modern History* two chapters, "The Age of Discovery" and "The New World", and in other ways did valuable service in his chosen field.

It is reported that the French Geographic Society has awarded to Henry Vignaud, secretary of the American Embassy, the Jomard prize for historical and geographical researches.