

*Due Process of Law under the Federal Constitution.* By LUCIUS POLK MCGEHEE, Professor of Law in the University of North Carolina; lately Associate Editor of the *American and English Encyclopædia of Law*, second edition. (Northport: Edward Thompson Company. 1906. Pp. x, 451.)

The purpose of this book is, as its name implies, to set forth the meaning of due process of law as provided by the fifth and the fourteenth amendments of the Constitution of the United States, as those amendments have been interpreted by the supreme court of the United States. Inasmuch, however, as a consideration of merely the decisions of that body would not give a complete idea of the law on the subject, since decisions of the highest State courts that State statutes violate the fourteenth amendment are not appealable to the highest United States court, our author has, notwithstanding his avowed purpose, examined and cited a great many of the decisions of the State courts. At the same time he has not attempted to cover the whole of the subject of due process of law in our constitutional law.

His book seems to be a careful and cautious statement of the law which he has not permitted to be influenced to any great extent by his personal opinions. The result of his work, therefore, is not any marked contribution to the development of the law. That is, his book is rather a description of the law, as it is, than an attempt to solve any of the knotty problems, which have not as yet been solved by the decisions of the courts. It will, however, be most useful for the practitioner and the student of our constitutional law so far as that law seeks by providing due process of law to protect the liberty and property of the individual.

Mr. McGehee's statement of the law seems, as has been said, to be in the main, accurate and fair. Like most lawyers he is, however, perhaps more in sympathy with the protection of individual rights than with the extension of governmental power. He would seem thus to lay down in a rather too unqualified a manner the rule that in abating a nuisance under a nuisance removal order, health officers "act at their peril, and if it is proved that they have overstepped the bounds of reasonable police action, the order will be no protection to them" (p. 374). While the law on this point is by no means clearly settled, there are a number of well considered cases, which hold or intimate that where the individual whose property is so destroyed,

has had an opportunity by law, or whether provided by law or not, has had an actual opportunity to be heard on the question of the existence of the nuisance, the officers abating the nuisance are protected by such an order issued after a hearing, while some of cases have held, that an order to abate a nuisance issued after such a hearing may not be attacked except in a direct way (see, *e. g.*, *Raymond v. Fish*, 51 Conn. 80, and *Metropolitan Board of Health v. Heister* 37 A. Y. 661). To one who is interested in an efficient administration of the police power as it affects the public health, this is a very important matter. Such a one can hardly regret that this subject has not received a fuller treatment by Mr. McGehee.

On p. 212 our author makes a statement without qualification which is not supported by all the decisions and would not seem to be sound when looked at from the point of view of fundamental theory, namely, that the power of taxation cannot be delegated to private corporations (see, *e. g.*, *Anderson v. Kerns Draining Co.*, 14 Ind. 199, and *Drainage Co. Case*, 11 La. Ann. 338).

But apart from a few such too broad statements the book is an extremely valuable one and cannot fail to fill a much needed place.

FRANK J. GOODNOW.

*The American Nation.* Vols. xvi, xvii, xviii, xix. (New York: Harper Brothers, 1906.)

*Slavery and Abolition, 1831-1841.* By ALBERT BUSHNELL HART. Pp. xv, 360.

*Westward Extension, 1841-1850.* By GEORGE PIERCE GARRISON. Pp. xiv, 366.

*Parties and Slavery, 1850-1859.* By THEODORE CLARKE SMITH. Pp. xvi, 341.

*Causes of the Civil War, 1859-1861.* By FRENCH ENSOR CHADWICK. Pp. xiv, 372.

These volumes cover the period from the rise of abolitionism to the outbreak of the Civil War. Professor Hart pictures the institution of slavery from all sides, summarizes the abolitionist attack upon it, and the argument returned by its defenders, and sketches the relations of abolitionism with the slave, the slave-holder, the government, and political anti-slavery. He emphasizes the isolation of the South in consequence of what Southerners themselves significantly named