

Government Corporations and State Law (Book Review)

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author who has discussed the Constitution, the Supreme Court, and its decisions intelligently and sympathetically, without that carping, unconstructive-critical, if not downright insolent attitude to which we have become all too accustomed today—an attitude which is unfortunately found prevalent in both high and low places. This book, therefore, renders an outstanding service both to the court and to the American people. For here is presented an undistorted record of the true dignity and the perennial importance of our Supreme Court during the entire period of our history.

This work has been deservedly a classic for decades. It has had a wide audience in the past; it should have a wider one now, and an ever widening one in the future. Anyone interested in our form of government, its processes, functions and operations, should not neglect to read this valuable book.

GEORGE F. KEENAN.*

GOVERNMENT CORPORATIONS AND STATE LAW. By Ruth G. Weintraub. New York: Columbia University Press, 1939, pp. 200.

This book is a factual study of the influence of state law on National Government corporations and the reaction of the latter on state law.

The author uses the term Government Corporation rather than Government Owned Corporation or Government Proprietary Corporation because both of the last two terms are too narrow. The term Government Owned Corporation is too narrow since there are organizations which have been authorized by the National Government and have been held to be instrumentalities of the United States and yet they are neither entirely owned by, nor subject to, a board of directors chosen by the Government. On the other hand, the term Government Proprietary Corporation is also too narrow because the "governmental corporation exclusively proprietary in intent may be a theoretical possibility, but in practice many other functions are involved besides the proprietary one."

Although Federal Government corporations have been incorporated in several ways (Appendix III, pp. 180-194), the author points out that a majority of them were organized by federal officers who availed themselves of the incorporation laws of several of the states and the District of Columbia. This incorporation under state laws has been vigorously attacked both in and out of Congress, but the author concludes that most of the adverse criticism has not been justified by experience.

The chief difficulty caused by incorporation under state law is that it creates an uncertain sphere of power between the Federal and State Governments. But this same difficulty also has occurred when Government corporations were not organized under state law. The conclusion of the author would seem to be justified that this "conflict between state and federal authorities over the control of governmental corporations can be minimized only to the extent to which Congress can be precise in its desires."

Chapters II and III are closely related. They deal with the taxing power

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of the states over Federal Government corporations, and the power to tax the incomes of the employees of such corporations. On these two questions the material presented shows that the opinions of attorney-generals and the decisions of the state courts and of the federal courts, are hopelessly contradictory. Chaos is the only word adequately describing the situation.

Chapter IV describes the attempts of the states to regulate Government corporations in a variety of ways such as forcing them to comply with zoning laws, employee welfare laws, etc. For the most part the Government corporations have resisted these attempts at regulation. How far may a state go in such regulation? "The judicial answer is too varied and contradictory to be useful" says the author. The solution to the problem "will probably be found in clearly thought out Congressional legislation which will provide for a reasonable division of power and responsibility." The reviewer feels that this conclusion of the author is fully justified by the facts presented.

Chapters V and VI show how the states have cooperated both by legislation and administrative procedures with the Government corporations. Briefly put, the states have adopted legislation favorable to the Government corporations because it has been to their interest to do so. The same may be said for the administrative cooperation. This has been particularly true since 1933.

Moreover, the officers and employees of the Government corporations have not been passive observers in this situation. They have actively, and in some cases aggressively, presented their ideas to state legislators and administrative officials. Where a Government corporation is operating in several states it is only natural that its officers and employees should desire uniform legislation and administrative procedures.

The closing sentence of this book is significant because it reveals the author's attitude toward all the problems presented. "When Congress has learned to be precise in formulating its desires, and has thought out what relation the state ought to bear to a national government corporation, then the corporation will become a more useful device for the federal system." Taken as a whole this work accomplishes well what it attempts to do. The material presented is important, timely, well arranged, and thoroughly documented.

WILLIAM M. HUDSON.*

THE BRANDEIS WAY. By Alpheus Thomas Mason. Princeton: Princeton University Press, 1938, pp. vii, 336.

In the production of this most significant and fascinating study, Professor Mason has skillfully combined three essential ingredients. Basically, the book is a review of applied democracy; an analysis of its fundamental principles and underlying meaning. The author then proceeds to give point to the abstractions discussed in the opening chapter by selecting for his "case study", Louis D. Brandeis, without doubt one of the noblest and most forceful of the present-day exponents of the democratic ideal. The particular process which is chosen to

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