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## Genesis of the Constitution of the United States of America, by Breckinridge Long

Oliver P. Field

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regulatory bodies simply the task of enforcing the policy so adopted.<sup>7</sup> He believes that the legislature is free, under the decisions of the Supreme Court of the United States, to adopt actual investment as the rate base, for existing plants as well as for those to be constructed in the future. In his view he has distinguished support<sup>8</sup> and his own argument is so cogent and so forceful<sup>9</sup> that the reviewer finds it impossible to disagree therewith in point of logic. However, in view of the strong influence upon developing legal doctrine of *dicta* frequently and emphatically repeated, one may not be sure of the result in the absence of a binding precedent.

Mr. Bauer recognizes that one drawback to the adoption of his plan is the cost of the appraisals of utility property essential to its inauguration.<sup>10</sup> In these days, when governmental parsimony and individual extravagance are earnestly preached in the sacred names of Mammon and of Diana of the Ephesians, the objection is a serious one. But, as our author points out, the resultant advantages would amply justify the first cost. It is to be hoped that some legislature will have the courage to put Mr. Bauer's suggestions into effect and that, when the policy meets the inevitable contest in the courts, its constitutionality will be as ably defended as it is in the volume under review.

MAURICE H. MERRILL.

*Genesis of the Constitution of the United States of America.* Breckinridge Long. The Macmillan Company, New York, 1926. 260 pp.

The main theme of this work is accurately indicated in its title. Mr. Long has attempted to trace the development of government through the colonial period, through the period of the Revolution, and the Articles of Confederation to the period when the present constitution was framed and formulated in 1787. The attempt is confined to an examination of the formal documents which preceded the constitution of 1787 and although some historical and philosophical setting is afforded here and there the work is primarily an analysis of the so-called fundamental documents, charters, and articles which were drawn up in the various colonies and during the period of the first state governments. The book is well written, and makes very interesting and suggestive reading. One may feel that too much emphasis has been placed on the formal writing and too little on the economic, social, and religious and political forces which are continuously at work in supplementing, modifying and replacing the written portions of these many documents. Too little effect is recognized in the philosophical beliefs of the time, but on the other hand the book is commendable in that it brings to the forefront the fact that most of the provisions of the constitution which was formulated in 1787 had its counterpart in the provision of some earlier document. An interesting feature of the book is an annotation of the constitution showing from what document and the section thereof each provision of the present constitution is thought to have been derived.

OLIVER P. FIELD.

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<sup>7</sup> For similar suggestions, see F. F. Blachly, *The Relationship between the State Legislature, the Utilities Commission and the Courts in Rate Making*, Proceedings, Fifth Annual Convention, Southwestern Political and Social Science Association (1924), 7, and Gerard C. Henderson, *Railway Valuation and the Courts*, 33 Harv. Law Rev. 902, 1031.

<sup>8</sup> Edwin C. Goddard, *Fair Value of Public Utilities*, 22 Mich. Law Rev. 777, 785. Donald R. Richberg, *A Permanent Basis for Rate Regulation*, 31 Yale Law Jour. 263, 278; *The Supreme Court Discusses Value*, 37 Harv. Law Rev. 289.

<sup>9</sup> Chapter V.

<sup>10</sup> Page 59.