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Book Review. State Legislative Committees by C. I. Winslow

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various Federal laws relating to the Territory of Louisiana, its Government and Admission to the Union, Authentication of Records, Lands, Citizenship and Naturalization. There is an excellent index.

The chief criticism of the volume is that it does not contain the Constitution of 1921 in the form in which it was originally adopted and before it was amended. This is also true of the Constitution of 1913 and 1898, and, in certain instances, of the prior constitutions. Thus, one desiring to compare an amended article of the Constitution of 1921 with the article in its original form, in order to determine the nature and scope of the amendment, would be compelled to resort to other books for the purpose. In view of the fact that the Compiler was able to devote more than one hundred pages to various federal laws, it is a great pity that he did not include in his volume all of Louisiana's Constitutions in their original form, together with all of the amendments in full, and thus make his work complete. Value would have been also added to the book by the inclusion of Kentucky's Constitution of 1799, from which the Louisiana Constitution of 1812 was derived. For an example of a case where the history and meaning of an article of the Louisiana Constitution was traced through the Kentucky jurisprudence interpreting the corresponding Kentucky article, see State ex rel. Saint v. Allen.3

This highly useful volume is a necessary part of any law library, and it will save the practicing lawyer, as well as the student, many hours of laborious research.


The story of law-making is the story of spectacular but unimportant forensics and little known but decisive committee action. Formally, a new law results from the concurrence of the houses of the legislature and the acquiescence of the executive department. Practically (except in the case of the most important legislation), one house passes a bill because it has been passed by the other. The originating house passes the measure because its committee has recommended it. The committee recommended it because its chairman favored it. And the chairman's favor may have been extended for a host of reasons—reasons which are too often irrelevant and unimportant. Founded on this procedure, legislative accomplishment is surprisingly good.

The uncertainty of this process has been again emphasized by Pro-

3169 La. 1046, 126 So. 548 (1930).
fessor Winslow in a monograph on "State Legislative Committees." Avoiding the dangers inherent in a theoretical consideration of the subject, he has sought to describe the legislative process in terms of actual committee practice, with particular reference to Maryland and Pennsylvania. Consequently, he is able to suggest significant limitations on the theory of the separation of powers in terms of actual executive participation in committee selection. Nor does the executive power stop there—bills must be referred to the "appropriate" committee—and the presiding officer usually determines the committee that is "appropriate".

With the committee selected, its main purpose is to prevent the enactment of hasty and ill-advised legislation. This protection is for the most part illusory. Notification of committee meetings is generally uncertain—only propitious fortune provides a quorum. And once assembled, there is little deliberation—the members eagerly rely upon the recommendations of their chairman. The committee may give not more than three minutes consideration to the average bill.

Professor Winslow believes that committee hearings in Pennsylvania and Maryland are fair, but of doubtful value. Moreover the records or reports that might be expected to result from them are for the most part non-existent. The author sagely suggests that "A careful system of records would . . . tend to give a certain publicity to what is now, in a large part, profoundly secret." With statutory interpretation of increasing judicial significance, the necessity of devising accurate and permanent records of committee activity appeals to the practical lawyer as well as to the student of government.

Professor Winslow's research indicates that committee action in Maryland is final in eighty-eight per cent of the cases in the originating house and is conclusive as to ninety-two per cent of the legislation considered by the second house. Apparently, committee action is the single most important factor in legislation. Consequently, Winslow seeks to evaluate its accuracy and effectiveness.

1Pp. 118-121. 2P. 82. 3P. 89.

The frequency of amendatory legislation he considers a serious reflection upon the success of the committee system. Two factors augur against this conclusion. First, the substantive law is not subject to great fluctuation. The statutory spume that expands the session books does not purport to alter the "lawyer's law" or to possess more than temporary importance. The experience of the past fifty years gives no indication that the substantive law will all be repealed in a similar period in the future. Second, such new legislation is amendatory in form merely to avoid the stigma that accompanies untried experimentation. Thus, to take the number of amendatory statutes as a criterion of the legislative alteration of old law is misleading.

Winslow's critique of the committee system in terms of the governor's veto also seems a little tenuous. It overlooks the human element in legislation which so often destroys its science. For example, many bills may reach the governor's desk for the avowed purpose of harassing him, or with a mutual understanding that he will veto them. In a similar fashion some of the "duplicate" bills may be explained. In many states "every legislator must have his day" on which his house will pass one bill which he introduces. Obviously the bill must in many cases be an unimportant one and safety dictates that it leave existing law undisturbed. Thus, the origin of at least a part of duplicate legislation may be explained.

The author's general conclusions are that the committee system must perform the following functions: (1) Investigate and collect information concerning proposed legislation; (2) give careful and critical consideration to the matters referred to it; (3) apply to these problems specialized knowledge unavailable in the legislative chamber itself; and (4) recommend legislative action. Winslow concludes that these ends will remain frustrated until the number and size of committees are decreased and the appointment of its personnel is made strictly upon the basis of special abilities.

This monograph is a valuable addition to the literature of legislation. It is, however, only one of many studies which must be undertaken before

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5"At that rate, it (Pennsylvania) would in a little over fifty years repeal all its statute law." While administrative regulation is subject to rapid fluctuation, the change in substantive law (measured only by the number of bills) has seldom amounted to more than a small fraction of the total legislative output of a session.

6In some states as many as two-thirds of the enacted laws are amendatory in form. In Louisiana, the legislature has more strictly limited the use of the amendatory form to acts which are in fact amendatory. Cf. Louisiana Acts of 1928, 1932. In the former session approximately thirty-six per cent of the acts were amendatory, in 1932 the number amounted to about forty-two per cent.

7P. 131.
the common law contempt for the legislative process can be overcome. Since tradition and self interest so definitely oppose a scientific legislative procedure, early success cannot be expected.

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This book is written by the statesman and diplomat who shared perhaps as much as any Colombian\(^1\) in the relations and negotiations between the United States of Colombia and the United States of America concerning the construction of the Panama Canal and the secession and independence of Panama. It assembles a fairly complete survey of the Colombian side of the twenty years' controversy but its failure to throw fresh light into two or three dark corners of which the author may have had unusual opportunities for knowledge is disappointing. The material, little of which is now new, consists of a review of Atlantic-Pacific canal projects from 1529 to 1922,\(^2\) a lecture on the principal factors in the development of the United States delivered at the National University in Bogotá, September 15, 1897,\(^3\) an article on intervention and the Spanish-American War dated August 20, 1899,\(^4\) six chapters on the interoceanic canal situation since 1900 and the successive treaty negotiations of 1901 to 1903, 1909, and 1914,\(^5\) nine speeches in the Colombian Senate as Chairman of the Committee on Foreign Affairs in support of the ratification of the modified treaty of 1914,\(^6\) and a review of the exchange of ratifications of that treaty in 1922.\(^7\) Although there is no bibliography or index and only slight consideration of cognate material as attested by the scarcity of footnotes,\(^8\) the simplicity of style and singleness of theme marshall the ideas before the reader's mind more pleasantly than the repetitious and aggregative method presents the material to the eye. Even a persistence in characterizing divers acts and qualities of the United

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\(^1\)Dr. Uribe has been Professor of International Law at the Colombia National University since September 15, 1897, rector of the faculty of law, Secretary of State, January 11 to September 24, 1901 and January 4 to March, 1922, ambassador, member of the Advisory Commission on Foreign Relations, senator, President of the Senate, and President of the House of Representatives. *Cf.* 2 *Rev. de la Acad. Colomb. de Juris.* 381 (1911); 1 *Am. Bar Assn. Jour.* 209 (1915); 21 *Rev. Der. Int.* 191 (1932).

\(^2\)Pp. xi-Iv.

\(^3\)C. 1.

\(^4\)C. 2.

\(^5\)C. 3-8; in part from the author's *Ruales Diplomáticos de Colombia* (Vol. 4, 1914), and other works.

\(^6\)C. 8; from the author's *Las Modificaciones al Tratado* (1921), Book Review, 5 *Rev. Der. Int.* 240 (1924).

\(^7\)C. 9.

\(^8\)Sixty-three in the introduction and chapters one and two; four pageless cross references and fifteen other footnotes in the remaining three hundred ninety-one pages of the book.