

with reference to suffrage within the limits of the Fourteenth and Fifteenth amendments. Any state can do that, and any act of Congress forbidding such action is null.

Mr. Foster insists (p. 22 *seqq.*) that the federal constitution is marked by strong originality. Again he is right. Its elements may be traced to many sources. But as a whole it is just what Gladstone called it, — “the most wonderful work ever struck off at a given time by the brain and purpose of man.”

And now that the evolution of the republic has made clear the meaning and purpose of all the parts of the great instrument of government, it is time that all should be summed up in a complete exposition. The one we are considering bids fair to take that place in the literature of constitutional history and law. It can only be hoped that the promise of this volume will be fulfilled in the remainder of the work.

HARRY PRATT JUDSON.

*Essays in Taxation.* By EDWIN R. A. SELIGMAN, Professor of Political Economy and Finance, Columbia College. (New York and London: Macmillan and Co. 1895. Pp. x, 434.)

AMERICAN representatives of that “historical school of economics” much discussed in this country some ten years ago have made, as a rule, but slight use of history in their published works. To this rule Mr. Seligman is an exception. His *Essays*, to be sure, do not constitute a history of taxation. On the contrary his chief interest, frankly confessed, is rather in theory, which he regards as affording both a means for the interpretation of actual tax conditions and a canon for the constructive criticism of existing taxes. The *Essays* are, therefore, but incidentally historical. Nevertheless the historical element in them is considerable, for present theory and present practice alike are everywhere explained by tracing their development. Simply as an example of method, the book has thus a two-fold value. To the theoretical economist, on the one hand, it reveals how much may be sacrificed of clearness and of cogency by neglecting history. To the writer of economic history, on the other hand, it indicates the helpfulness of such discreet selection among manifold industrial phenomena as has not resulted, in some instances, from a combination of antiquarian ardor with economic ignorance.

The introductory essay on “The Development of Taxation” attempts what may be described as a philosophy of tax history. The norm of taxation has gradually changed from “taxes proportioned to benefit received” into “taxes proportioned to ability to pay”; and the change is due to “the slow and laborious growth of standards of justice in taxation, and the attempts on the part of the community as a whole to realize this justice.” There can be no doubt that, correlatively with the increasing diversity in the forms of wealth and in the sources of income — that is to say, in the indices of taxable ability — justice in taxation, as we now conceive

justice, demands the progressive diversification of taxes. There can be as little doubt that such diversification in the forms of taxation has taken place. But there is much room for doubt whether actual diversiformity of taxation is so largely the result as Mr. Seligman apparently thinks it of obedience to the social demand for justice. He admits, indeed, that "according to the experience of history most reforms, in finance at least, are due to selfish reasons." Nevertheless the general tendency not only of his opening essay but of his whole book is to assign the first place as a reformatory agency rather to ideal justice than to fiscal necessity. In opposition to his view it is at least possible to argue that fiscal exigencies were most easily satisfied by seizing, through some new device of taxation, upon each new form of property or of income as it arose. Thus we may account in another manner, and in a manner perhaps not less probable, for the emergence of approximately that diversification in taxes which justice is thought to demand.

Of Mr. Seligman's more specific use of history perhaps no better example can be cited than his essay on "The General Property Tax." When first feudal payments in England received distinct recognition as a money tax, they appeared as a tax upon land, for land was then virtually the only form of wealth. With the growth of industry and commerce in the towns, this land tax gradually developed into a local tax on all property, supplemented by a poll tax. National taxation followed in the wake of local taxation, tallage merging into tenths and fifteenths. These were for a time fairly successful; but the continuous growth of movable property made possible increasing evasion, until the crown was forced to supplement the existing tax, deteriorated into an almost exclusive tax on land, by a new general property tax called the "subsidy." Again and again this experiment was repeated. In practice the subsidy, the monthly assessments of the Commonwealth, and the later "general property tax" successively degenerated, in spite of rigorous statutes, into virtual land taxes. The fact of their degeneration was at last formally recognized when, in 1697, what remained of the general property tax was officially styled "the annual land tax." Since that time England has given up the attempt to reach all sorts of taxable ability by one tax. The history of Roman, of French, of German, and of Italian taxation reveals an analogous development. In themselves these facts may or may not be of interest; to Mr. Seligman they are of interest because they show something:—

"History thus everywhere teaches the same lesson. As soon as the idea of direct taxation has forced itself into recognition, it assumes the practical shape of the land tax. This soon develops into the general property tax, which long remains the index of ability to pay. But as soon as the mass of property splits up, the property tax becomes an anachronism. The various kinds of personalty escape, until finally the general property tax completes the cycle of its development and reverts to its original form in the real property tax. The property tax in the United States is simply one instance of this tendency; it is not an American invention, but a relic

of mediævalism. In substance, though not in name, it has gone through every phase of the development, and any attempt to escape the shocking evils of the present by making it a general property tax in fact as well as in name is foredoomed to failure."

Among so many statements of fact as Mr. Seligman necessarily makes, an occasional slip is inevitable. For instance the war tax of republican Rome, the *tributum civium*, is declared "not so much a tax as a compulsory loan to be repaid out of the proceeds of conquest." The repayment of the *tributum* was by no means invariable, and no obligation of the state to repay it has been proved. On the contrary Livy says that it was repaid, in 187 B.C., *ad populi gratiam conciliandam*. On page 139 of the *Essays* the New York statute of 1853 which provided for taxing "the capital stock of every company . . . together with its surplus profits or reserved funds exceeding ten per cent. of its capital," is described as taxing corporations "on the amount of their paid-up capital stock in excess of ten per cent. of the capital" — words from which it is difficult to extract any meaning whatever. In the essay on "The Betterment Tax," Mr. Seligman says "the institution is indeed found in America, but the name is unknown there." On the contrary the supreme court of Massachusetts has repeatedly spoken of "assessments for betterment," e.g., in *Prince vs. Boston* (111 Mass. 226, 230 — decided in 1872) and in *Foster vs. Park Commissioners* (133 Mass. 321, 336 — decided in 1882). These, however, are all trifling matters, easily corrected. A questionable assertion of somewhat greater importance is that "the custom of special assessment for benefits is of English origin." Mr. Seligman finds in English statutes of 1662 and 1667 the prototype of the New York provincial law of 1691, which was "the first law providing for special assessments in America." Whatever may be the historical connection, or lack of connection, between these laws, special assessments in New York are, in fact, at least a generation older than Mr. Seligman makes them. On the 15th of March, 1657, the residents upon De Brouwer Straat in New Amsterdam asked to have their street paved, and the Burgomasters commissioned Isaack de Forest and Jeronimus Ebbingh to take charge of the work, of the expense of which all residents in the street were to bear a proportional part. Three years later the residents on De Heere Graft (now Broad Street) submitted a like petition, adding "it is also asked that each one benefited shall be made to pay a portion of the expense." On the completion of the work Jacques Cortelyou, surveyor, returned the names of the twenty-one persons who owned property on the street, with the frontage of each lot, and they were assessed sums varying from 71.01 guilders to 273 guilders, the total being 2792.19 guilders. Evidently the inhabitants of New Amsterdam were familiar with assessments for benefit before they came under English law.

In their economic aspects the *Essays*, which exhibit a competent acquaintance with the tax laws and with the fiscal theories of foreign countries as well as with our own laws and conditions, are a distinct

advance upon all previous American writing concerning state taxation. The book is accurately printed and admirably indexed.

CHARLES H. HULL.

Mr. Brooks Adams relates, in the preface to his *Law of Civilization and Decay* (New York, Macmillan and Co., 1895, pp. x, 302), that his *Emancipation of Massachusetts* led him to study more thoroughly certain aspects of the Reformation, and that these studies led him still farther back into a more general study of history, until there gradually shaped itself in his mind the theory of history which he has presented in this volume. To the reader of the book who judges it from the standpoint of the special student of the facts of history, it seems a marked example of the influence which, consciously or unconsciously, the so-called "fall of Rome" usually exerts upon the thinking of men in regard to the course of history. For him, the book strongly emphasizes the conclusion to which many considerations must have led him, that one of the things most imperatively demanded before any very complete work can be done upon the general course of history is the minute study of the fall of Rome by some one who is not merely a thoroughly trained historical critic, but who is a thoroughly trained economist as well.

The author considers the course of history to be a regular alternation between one stage in which society is loosely organized, controlled by fear as the active cause, and of a military and imaginative type, and another in which society is highly centralized, controlled by greed, and of an economic type. The first changes into the second through the accumulation of capital, and the second changes back into the first through the extinction of the productive power under a capitalistic organization. Rome gained its empire by the strength of its military class, but at once began the development of a capitalistic class which became so powerful as to control the state, and finally to destroy the producing class. This left Rome defenceless, and the Germans easily entered and introduced a new age in which the imagination again became the controlling force. Thus was produced the theocracy of Gregory VII. and the Crusades. But the Crusades brought the West into contact with the two highest civilizations of the time,—the Eastern Empire in the final stages of centralization, and the Arabs at the meridian of their material splendor,—and this contact introduced an age of economic competition in Europe. Gradually a struggle came on between the imagination, represented by the priests, and the new economic force in which the money power gained a complete victory. This victory is the Reformation, which put the state under the control of the capitalistic class as in Rome. Since then there has been a steadily increasing centralization of society, and a more and more powerful capitalistic organization, which has reached its highest point in the present century. Now all signs point to the fact that we are approaching a second change back into another military and imaginative age.

The book is very suggestive; it presents a theory of history which must