

## Public Utility Rate-Making

Daniel J. McKenna

Follow this and additional works at: <http://scholarship.law.marquette.edu/mulr>



Part of the [Law Commons](#)

---

### Repository Citation

Daniel J. McKenna, *Public Utility Rate-Making*, 12 Marq. L. Rev. 336 (1928).

Available at: <http://scholarship.law.marquette.edu/mulr/vol12/iss4/19>

This Article is brought to you for free and open access by the Journals at Marquette Law Scholarly Commons. It has been accepted for inclusion in Marquette Law Review by an authorized administrator of Marquette Law Scholarly Commons. For more information, please contact [megan.obrien@marquette.edu](mailto:megan.obrien@marquette.edu).

**International Law.** By Julius I. Puente. Burdette J. Smith and Company, Chicago. 1928. Pp. 299.

*International Law As Applied to Foreign States*, by Julius Puente, LL.M., associate professor of international law at the De Paul University College of Law, is, as stated by the author "an analysis of the juridical status of foreign states in American jurisprudence." It is a companion book to *The Foreign Consul* by the same author, and the set is of great value to a student of the practical aspects of international law—a field which is little known to the average student.

The book makes no attempt at a historical or philosophical analysis of the subject, leaving that to the longer works of the elementary writers, but it is devoted to a clear concise statement of legal principles, supported by copious notes from American and English cases, and from well known text writers. The book is well written in a style which although easy to read, contains brief statements of the law which will repay careful study.

The introductory chapter explains in a general way the sources, bases, and necessity for a law governing the intercourse of nations. A list of the topics treated in the other four chapters—Recognition of Foreign Governments, Suability of Foreign States, Ambassadors and Public Ministers, and Treaties—will suffice to show the practical utility of the book to one desiring a comprehensive view of the field it covers.

The two books of the set have been well treated by the publisher. They are handsomely, although not expensively bound, printed in large plain type, and very well indexed, not only to subject matter, but to words and phrases.

MARGARET E. JORGENSEN

**Public Utility Rate-Making.** By Taylor E. Groninger. The Bobbs-Merrill Co. 1928. Price: \$7.50 net.

In *Public Utility Rate-Making*, Mr. Groninger does a difficult task and does it well. The author is a member of the Indianapolis bar, a former corporation counsel for the city of Indianapolis and special counsel for the Indiana Public Service Corporation. He writes from the viewpoint of a practical lawyer as well as of a theorist and brings to his work an experience and ability only too frequently absent from those who seek to defend the public against the organized aggression of great corporations. Not one of the least valuable qualities of his book is the fact that he so frequently leads the reader from the pensive citadel of the student into the forum of the advocate.

Furthermore, the book is actually interesting. That is, it is as interesting as anything dealing with so prosaic a subject *can* be. This interest is due largely to the pleasing style of the author, which at times is almost conversational and which is never dull. Perhaps this style would not be suited to a ponderous text which sought to classify and reclassify the innumerable decisions, State and Federal, in point. But the author, as he expressly sets out to do, confines himself, with a very few exceptions, to the decisions of the Supreme Court of the United States and thereby avoids the tediousness of excessive minutiae. As he explains in the preface, "not many United States District Court decisions, State Supreme Court decisions or Commission orders are cited as authority, owing to the great contrariety of opinion among them."

The method used by the author is to quote very largely from the decisions of the Supreme Court of the United States, linking these quotations together with suitable comment and providing convenient summaries of his conclusions

at frequent intervals. This method, together with the typographical makeup, prevents the work from having the outward appearance of an orthodox law-book.

The most interesting parts are the chapter dealing with the "rate base," or the various elements of value upon which proper income may be predicated, and the chapter entitled "*Smith v. Ames* is Fraught with Grief." The last-named chapter deals with the famous case, in 1898, in which the Supreme Court of the United States laid down the "fair value" rule. Unfortunately, no one, least of all the judiciary, can or tries to give a definition of "fair value" to fit all cases. The rule is intended to be a fluctuating norm, accommodating itself to each new case and not attempting to force the latter into arbitrary and previously established limits. The author shows how this rule has led to results as absurd and chaotic as the thoughts of Thersites. He advocates instead the "prudent investment" rule of Justice Brandeis (dissenting) in the *Missouri ex rel. Southwestern Bell Telephone Co.* case, 262 U.S. 276, etc., although he admits that the "fair value" rule is too firmly established to be dislodged.

Having praised the book, and it contains much that is praiseworthy, it were idle to pretend that it has no faults. One of these is the fact the simple and direct literary style of the author sometimes prevents sufficient thoroughness. Occasional dullness is not too much to pay for detailed exactness.

Another *quasi*-fault is the repetition of the same quotations to illustrate different rules and the repetition of the same rule in different disguises. Probably this was unavoidable. At the same time, it does create an impression that material is being squeezed out with filmlike thinness. This impression is not destroyed by the long appendices which, with an excellent index, carry the book to a total of 381 pages, plus 21 preliminary pages. Considering the size of the book, its price appears excessive.

DANIEL J. MCKENNA

Some Lessons from Our Legal History. By William Searle Holdsworth, D.C.L., K.C., Hon. L.L.D. Published by the Macmillan Company, 1928.

The purpose of the author in writing this book is to have the student and the practitioner of law read legal history as a foundation and background of his legal education.

The treatise touches only superficially an exceedingly interesting subject, and gives one an insight into what legal history holds in store; for example, the origin of the Roman and common law, the formation and development of the jury system, and the origin and subsequent development of the old common law writs.

Legal history enlightens us as to how the law developed in its several phases, and also as to the introduction of the common law into the United States. During the period following the Revolution the common law had difficulty in gaining a foothold; there was much opposition to it and much favoritism for the Napoleonic code which was at that time in its infancy. Legal history explains and fixes these facts in one's mind.

Legal history gives the background of the earlier method of deciding cases, as contrasted with the present tendency of following the decision in previously decided cases.