

## BOOK REVIEWS

### A Look at *The Founders' Constitution*

THE FOUNDERS' CONSTITUTION. EDITED BY PHILIP B. KURLAND AND RALPH LERNER. CHICAGO, ILLINOIS: UNIVERSITY OF CHICAGO PRESS, 1987. PP. 3520 IN FIVE VOLUMES. \$300.

REVIEWED BY EDWARD L. BARRETT, JR.\*

The Founder's Constitution is a marvelous resource making constitutional history readily available to anyone. Collected in its five large volumes is substantially everything that has survived in readable form concerning the background, drafting, adoption, and subsequent discussion of the Constitution and the first twelve amendments. The distinguished editors—Philip B. Kurland<sup>1</sup> and Ralph Lerner<sup>2</sup>—have made it possible for the first time for scholars, lawyers, and citizens to read what was said on all sides of the issues, great and small, which contributed to the drafting of our Constitution—and to do it with a minimal expenditure of time. No comparable resource exists—these volumes are unique.

This work is not designed to lead us to one conclusion or another with respect to the debates about the Constitution and how it should be interpreted. They will not resolve the disputes between the interpretists and the noninterpretists. Rather, they give to us all in an easily used format the debates and discussions taking place at the time the Constitution was formed. With them it is easy to discover what the Founders thought and appreciate the range of the debates that took place as we moved toward a Constitution, as we drafted it, as we fought about it

---

\* Professor of Law Emeritus, University of California, Davis. B.S., 1938, Utah State University, J.D., 1941, University of California, Berkeley.

<sup>1</sup> William R. Kenan, Jr., Distinguished Service Professor in the College and Professor in the Law School, University of Chicago.

<sup>2</sup> Professor in the Committee on Social Thought and in the College, University of Chicago

during the ratification process, and as the government was taking shape under the Constitution during the early years.

The materials presented in this fashion should appeal to a wide range of users. Scholars will find these materials as the indispensable beginning point on major governmental issues. Lawyers will find that historical perspectives so easily reached will enrich both their understandings and their briefs. Citizens interested in governmental issues will find it easy to expand their horizons with knowledge of where we started—and also will find many portions of the work a joy to read.

The reader should not be put off by the size of this work—one reads it only a piece at a time. All of the hard and boring work has been done for you by the editors. They have combed the major libraries and book collections to find the relevant discussions. They have gone through the books and letters page by page to find the excerpts relevant to particular areas. And they have put it all together—leaving adequate trails if one wishes to go back and look at the originals from which they have culled the excerpts used. All one has to do is to identify her area of interest, find it in the books, and read. The time saved is hardly calculable. For most of us, much of the material presented is truly available for the first time, since individually we have not had either the time or the money necessary to ferret out and sort through the relevant documents.

My own experience illustrates the usefulness of these volumes. I agreed to review them. As a person who had just retired after a lifetime of teaching and writing about Constitutional Law, I assumed the review would not be difficult. But when the five volumes piled on my desk seemed to tower over me, I wondered what I had gotten myself into. I started to read a little of Volume 1 and ended up spending most of a month reading it from beginning to end—to my own amazement but also to my own enjoyment. Later I sampled the other volumes. Now I am sorry that the work had not been available during my active professional life, and I am certain that even now I will use them to increase my understanding with reference to many current constitutional law issues.

## I. A DESCRIPTION OF THE VOLUMES

The volumes are larger than normal books and the type is fairly small. In total the five volumes have 3,520 pages set in double-column style. Each page has about twice as many words as, say, L. Tribe, *American Constitutional Law*. An enormous amount of material is included.

Volume 1 collects materials on major themes. It starts with a short introduction telling how the editors view the materials and how they can be used. It then is divided into chapters covering such broad issues as Republican Government, Federal versus Consolidated Government, Separation of Powers, Representation, Rights, Equality, Property—eighteen in all.

Each chapter begins with a list of the documents included and a brief introduction by the editors putting the excerpts in context. The range of materials included is shown by Chapter 4—Republican Government.<sup>3</sup> It begins with excerpts from Locke in 1689, Montesquieu in 1748, and Hume in 1752. Next come excerpts from 1776 to 1787—including John Adams, Thomas Jefferson, and James Madison. Next are the relevant portions of the records of the Federal Convention followed by about fifteen excerpts from discussions during the ratification process. At the end are excerpts from relevant letters during the postratification stage, ending with a Jefferson letter in 1816. At the end of the chapter is a *See Also* list directing attention to about thirty additional documents which might be consulted for further information.

At the end of the volume are four useful tables. First is a list of *Short Titles Used*—giving full references to works cited only by a short title in the text and thus making it easy to locate the original if desired. Second, there is an *Index of Constitutional Provisions* referred to in the text. Third, there is a *Table of Cases*. Fourth, there is an *Index of Authors and Documents*. Each of these is printed in full in each volume except for the *Index of Constitutional Provisions*, which cumulates from volume to volume.

Volumes 2-4 collect statements made regarding the Constitution proceeding from the Preamble to the end of the original text. Volume 5 includes the discussions regarding the first twelve amendments. The editors designed volumes 2-5 to permit a person interested in a particular portion of the Constitution to find the relevant materials by looking to the particular section involved. They do not, however, as did Volume 1, include any notes by the editors. The materials selected with reference to each provision fit into a fairly standard pattern. If the clause has antecedents prior to the Revolution, they are included. For example, the material relating to article 1, section 8, clause 12<sup>4</sup> on the raising and supporting of armies has the initial excerpts from the Bill of Rights in 1689, Montesquieu, Blackstone, Burght, and Adam Smith. Next come relevant statements from the Continental Congress times, with

---

<sup>3</sup> Vol. 1, p. 96.

<sup>4</sup> Vol. 3, p. 122.

quotations from state constitutions when relevant. Then all discussions of the particular clause in the Federal Convention are brought together and reprinted. Next are liberal quotations from the debates during the ratification period—letters, floor debates in the states, Federalist Papers, and so on. Next, any statements or cases made or decided during the early governmental period relating to the provision are included. Finally, in most portions there is a quotation from J. Story, *Commentaries on the Constitution*, published in 1833.

## II. THE COMPLETENESS OF THE COVERAGE

The editors' purpose was to collect the discussions relevant to the drafting of the Constitution—to enable us to read what the framers and their contemporaries said about the Constitution. The editors do not purport to set out all of the relevant material—instead they have tried to be as complete as possible while winnowing out irrelevant chaff and arguments constantly made in identical terms. Also, they focus on discussion of the Constitution and the first twelve amendments. They extended the time range until the end of the Marshall era because so many of the founders lived until this time—Madison until 1836. But during the post-Constitution period the materials collected were those relating to what was understood by the Framers. The editors made no attempt to collect material concerning the social and economic setting of the period. And neither the complex politics of the ratification process nor the hard bargaining in the Convention are well reflected in this nonsequential selection of materials.

However, with these limits the collection appears to cover the significant documents so as to make looking beyond the materials set out or referred to in these volumes unnecessary. I have not, of course, tried to go into the library to search for omitted materials. But I have no hesitancy in saying that one need do no research beyond reading what is in these volumes and, if one is intrigued by a reference, pursuing it to its original source through the tables and reading it in context.

I should add that the allocation of pages to particular topics may seem strange; the editors devote a great deal of space to discussing issues not now of importance. The editors were concerned with what was discussed at the time the Constitution was created—not what has become modern constitutional law. So if one looks at the materials relating to article 1, section 2, clause 3,<sup>5</sup> one finds twenty-four pages devoted largely to discussing whether in the House of Representatives

---

<sup>5</sup> Vol. 2, p. 86.

each state should have an equal number of members, or whether the number should be related to population. On the other hand, one finds that some interests have been strong from the beginning. Thus 165 pages are devoted to discussion of the various aspects of the first amendment.<sup>6</sup>

### III. A MORE DETAILED LOOK AT A FEW SAMPLE AREAS

#### A. *Separation of Powers—Vol. 1, pp. 311-335*

This chapter, as do all of the chapters in the first volume, begins with an *Introduction by the Editors*. The introduction notes that the Constitution says nothing about the doctrine of separation of powers, but created a government exemplifying it. The editors then attempt in brief compass to put the excerpts into perspective. Next comes the following list of documents, ranging in time from Clement Walker in 1648 to James Madison in 1817:<sup>7</sup>

- |   |  |
|---|--|
| 1. Clement Walker,<br>Relations and<br>Observations, Historically<br>and Politick upon the<br>Parliament Begun Anno<br>Dom. 1640 (1648) | in ch. 4, no. 5  |
| 2. Marchamont Nedham,<br>The Excellencie of a<br>Free-State (1656)  | 8. Instructions of the<br>Inhabitants of Boston to<br>Their Representatives in<br>Congress, 1776 |
| 3. John Locke, Second<br>Treatise, §§ 143, 144,<br>150, 159 (1689)  | 9. Thomas Jefferson, Notes<br>on the State of Virginia,<br>Query 13 (1784)                       |
| 4. John Trenchard, A Short<br>Historie of Standing<br>Armies in England (1698)  | 10. Records of the Federal<br>Convention   |
| 5. Montesquieu, Spirit of<br>Laws, bk. 11, chs. 6-7<br>(1748), in ch. 17, no. 9   | 11. Centinel, no. 2, Oct.<br>1787  |
| 6. William Blackstone,<br>Commentaries (1765)   | 12. "William Penn," no. 2, 3<br>Jan. 1788  |
| 7. John Adams, Thoughts on<br>Government, Apr. 1776,  | 13. James Madison,<br>Federalist, no. 37, 11<br>Jan. 1788, in ch. 9, no.<br>9                    |
|   | 14. James Madison,<br>Federalist, no. 47, 30<br>Jan. 1788  |

<sup>6</sup> Vol. 5, p. 43.

<sup>7</sup> Vol. 1, p. 311.

- |  |  |
|--|--|
| 15. James Madison,<br>Federalist, no. 48, 1 Feb.<br>1788                     | 19. Alexander Hamilton to<br>George Washington, 7<br>Mar. 1796       |
| 16. James Madison,<br>Federalist, no. 51, 6 Feb.<br>1788                     | 20. Alexander Hamilton to<br>William Loughton Smith,<br>10 Mar. 1796 |
| 17. Alexander Hamilton,<br>Federalist, no. 71, 18<br>Mar. 1788               | 21. James Madison, House<br>of Representatives, 10<br>Mar. 1796      |
| 18. Nathaniel Chipman,<br>Sketches of the Principles<br>of Government (1793) | 22. James Madison to John<br>Adams, 22 May 1817                      |

What do these documents tell us? The first four documents from the 1600's show early writers advocating the separation of governmental powers as essential to liberty. Montesquieu and Blackstone agree in the 1700's. In the period between 1776 and the adoption of the Constitution, John Adams and Thomas Jefferson speak out in favor of separation.

In a long excerpt all of the discussions in the Federal Convention relating to separation of powers are brought together. Next comes the discussions during the ratification period. Some opponents of ratification argue that the separation of powers is not carried far enough. Five long pieces from the Federalist outline in detail the arguments by Madison and Hamilton in favor of the kind of separation involved in the proposed constitution. Next, four documents illustrate some of the problems that arose during the first few years after ratification. A final document shows Madison reflecting in a letter to John Adams that separation of powers had been widely accepted, including acceptance by all of the states. A *See Also* list includes ten additional documents one might examine.

To anyone interested in the modern debates over separation of powers—in the suggestion that our government should move in the direction of a parliamentary system melding legislative and executive powers in a single body,<sup>8</sup> these reflections at least tell us the early experiences that led to our present system. One should reflect on the beginnings as one thinks about whether the modern scene is sufficiently different to permit departing from the old doctrines without risking loss of essential liberties.

---

<sup>8</sup> *See id.*

B. *Citizenship—Art. 1, Sec. 8, Cl. 4, Vol. 2, pp. 557-619*

Suppose one has a question about citizenship. Who are citizens? How is the issue decided? The Constitution says no more than that Congress shall have power “[t]o establish an uniform Rule of Naturalization. . . .”<sup>9</sup> The framers never discussed the issue—or at least no discussion is reflected in the notes of the Federal Convention.

The following table lists the documents set forth on the subject:<sup>10</sup>

- |   |   |
|---|---|
| 1. William Blackstone, Commentaries (1765)                                      | to James Monroe, 10 Sept. 1794  |
| 2. Declaration of Independence, 4 July 1776                                     | 12. House of Representatives, Naturalization Bill, 22, 26, 29-31 Dec. 1794, 1, 8 Jan. 1795  |
| 3. Alexander Hamilton, A Second Letter from Phocion, Apr. 1784                  | 13. The Case of Isaac Williams, 27 Feb. 1797  |
| 4. Agrippa, no. 9, 28 Dec. 1787   | 14. James Iredell, Charge to Grand Jury, 9 Fed. Cas. 826, no. 5, 126 (C.C.D.Pa. 1799)       |
| 5. James Madison, Federalist, no. 42, 22 Jan. 1788                              | 15. St. George Tucker, Blackstone’s Commentaries (1803)                                     |
| 6. Federal Farmer, no. 18, 25 Jan. 1788   | 16. <i>Gardner v. Ward</i> , reported in <i>Kilham v. Ward</i> , 2 Mass. 236, 244n.a (1806) |
| 7. House of Representatives, Contested Election, 22 May 1789, in 1.5, no. 13    | 17. <i>Custis v. Lane</i> , 3 Munf. 579 (Va. 1813), in 1.8.17, no. 15                       |
| 8. House of Representatives, Rule of Naturalization, 3-4 Feb. 1790              | 18. <i>United States v. Gillies</i> , 25 Fed. Cas. 1321, no. 15,206 (C.C.D.Pa. 1815)        |
| 9. <i>Collet v. Collet</i> , 2 Dall. 294 (C.C.D. Pa. 1792)                      | 19. <i>The Santissima Trinidad</i> , 7 Wheat. 283 (1822)                                    |
| 10. Senate, Contested Election of Mr. Gallatin, 20-22 Feb. 1794, in 1.5, no. 16 |   |
| 11. Thomas Paine, Memorial  |   |

<sup>9</sup> *Id.*

<sup>10</sup> Vol. 2, p. 557.

- |   |   |
|---|---|
| 20. <i>Case of Phipps</i> , reported in <i>Cumington v. Springfield</i> , 2 Pick, 394, 394n. (Mass. 1824) | 23. William Rawle, <i>A View of the Constitution of the United States</i> (2d ed. 1829) |
| 21. James Kent, <i>Commentaries</i> (1826, 1827)  | 24. <i>Shanks v. DuPont</i> , 3 Pet. 242 (1830)   |
| 22. <i>Ogden v. Saunders</i> , 12 Wheat. 213 (1827), in 1.10.1, no. 19                                    | 25. Joseph Story, <i>Commentaries on the Constitution</i> (1833)                        |

A glance shows very little early discussion—only six items prior to the Constitution’s ratification. But immediately controversies arose. A contested election to the first House generated long discussion in Congress. The next year Congress engaged in elaborate discussion on a proposed naturalization bill, and in 1794 the Senate debated a contested election. Another very long debate in the House on the naturalization bill occurred in 1795. In the years following eight cases are reported along with long discussions in texts by St. George Tucker, James Kent, and William Rawle. It all ends with a quotation from Story in 1833.

Again reading over these materials gives us insight into how the citizenship and naturalization problems were viewed early in the days of the Constitution. The materials also provide invaluable background to those attempting to resolve modern issues arising after the fourteenth amendment defined citizenship nearly a century later.

### *C. Article V—The Amending Process—Vol. 4, pp. 575-587*

Article V provided for calling a convention for proposing amendments on application by the legislatures of two-thirds of the states. Article V said nothing about how similar the proposals in the calls had to be, about the procedures of the convention, and about the limitations, if any, on the amendments that could be proposed by the convention. These issues have never had to be resolved, but modern action by two-thirds of the states for a convention may soon make all of those issues relevant. What do the materials cited here contribute to solving such problems?

The book provides the following listed documents:<sup>11</sup>

---

<sup>11</sup> Vol. 4, p. 575.

- |  |   |
|--|---|
| 1. Vermont Constitution of 1786, ch. 2, art. 40  | Jan. 1788   |
| 2. Records of the Federal Convention   | 8. James Madison, <i>Federalist</i> , no. 49, 2 Feb. 1788, in vol. 1, ch. 2, no. 19 |
| 3. Charles Pinckney, <i>Observations on the Plan of Government</i> , 1787              | 9. Debate in Virginia Ratifying Convention, 5-6 June 1788                           |
| 4. Edmund Randolph to Speaker of Virginia House of Delegates, 10 Oct. 1787 in 7, no. 4 | 10. Debate in North Carolina Ratifying Convention, 29 July 1788                     |
| 5. <i>Federal Farmer</i> , no. 4, 12 Oct. 1787   | 11. St. George Tucker, <i>Blackstone's Commentaries</i> (1803)                      |
| 6. James Madison, <i>Federalist</i> , no. 43, 23 Jan. 1788                             | 12. Joseph Story, <i>Commentaries on the Constitution</i> (1833)                    |
| 7. Debate in Massachusetts Ratifying Convention, 30                                    |   |

In looking at these materials one learns first that Vermont thought of one of the modern problems in its constitution of 1786. The Vermont Constitution gave a Council of Censors the authority to call a convention to consider amending the constitution when it seemed necessary. But the constitution provided that "the amendments proposed and such articles as are proposed to be added or abolished, shall be promulgated at least six months before the day appointed for the election of such Convention, for the previous consideration of the people, that they may have an opportunity of instructing their delegates on the subject."<sup>12</sup>

The Records of the Federal Convention show that the first proposal was to permit amendments without the assent of Congress because of the fear that Congress would refuse consent to amendments. So the start was to require the call of a convention on application of two-thirds of the states. Later the Convention added a provision that Congress could also propose amendments by a two-thirds vote of both Houses. They then worried about the amendment process as imposing on a minority of states and so added provisions protecting slavery and the equal state membership in the Senate. Only two comments suggest that they worried about how conventions would be created and utilized. Madison remarked: "How was a Convention to be formed? by what

---

<sup>12</sup> *Id.*

rule decide? what the force of its acts?"<sup>13</sup> And later Madison added: "He saw no objection however against providing for a Convention for the purpose of amendments, except only that difficulties might arise as to the form, the quorum &c. which in Constitutional regulations ought to be as much as possible avoided."<sup>14</sup>

Next come eight documents from the ratification period. Here the debate appeared to be between those who thought that in a democracy a majority of the people ought to be able to change their constitution, and those urging the necessity to protect the Constitution against being too easily changed. At the end quotations from texts expressed approval of what was included in Article V.

Perhaps the most interesting insight is that Congress appreciated the need for procedures governing the process of amending through conventions but chose not to deal with the issue. When we have to cope with the problems of regulating the Convention process we will know that the Framers deliberately left these issues to the future.

#### *D. The First Amendment—Vol. 5, pp. 43-208*

The largest collection of material for any portion of the Constitution relates to the first amendment—so much that there is room here for only a few comments. But even a glance at this material should make it clear that all those interested in freedom of speech and religion should start by getting the background of the vigorous discussions reported here.

The first amendment materials are presented in three parts. The first, on religion,<sup>15</sup> presents sixty-nine excerpts plus one hundred additional documents referred to in its *See Also* list, altogether covering sixty-eight pages. Interestingly, the excerpts begin with John Calvin in 1536, and forty-six of them precede the Constitution's adoption.

The materials on speech and press include thirty-three documents in seventy-five pages plus a reference to nearly 100 more in the *See Also* list. These materials begin with an Act of Parliament in 1662 and conclude with Story in 1833.

The materials on petition and assembly are briefer. They include twenty-two excerpts in twenty-two pages with sixteen additional documents referred to in the *See Also* list. The materials begin with the

---

<sup>13</sup> *Id.* at 577.

<sup>14</sup> *Id.* at 578.

<sup>15</sup> For Professor Kurland's view of the Framers' intent on the Establishment Clause, see Kurland, *Religion and the Constitution: "Eternal Hostility Against Every Form of Tyranny Over the Mind of Man"*, 20 U.C. DAVIS L. REV. \_\_\_\_ (1987) (forthcoming).

Magna Carta in 1215, and end with the debate in the Senate in 1836 over whether to receive abolition petitions.

### *E. Women and the Constitution*

As I looked at these volumes, I became aware of the absence of women. Since, unfortunately, the editors did not provide us a conventional index, it is difficult to find where references are made to women and to their status in society. But what comes through very clearly is that the framers were reluctant to consider at all opening up society for women to vote and to participate in political life.

I think I am right that only two documents in all of those included in these five volumes were authored by women—and these were two letters by Abigail Adams to her husband John Adams. In the first of these, presented under the general heading of Equality,<sup>16</sup> Abigail, on 13 March 1776, wrote John urging that the rights of women be recognized. She said: “If perticular care and attention is not paid to the Laidies we are determind to foment a Rebellion, and will not hold ourselves bound by any Laws in which we have no voice, or Representation.” John responded<sup>17</sup> saying that the new government would not repeal masculine systems. He added that we know in fact that the women rule and have to be treated carefully. “We have only the Name of Masters, and rather than give up this, which would compleatly subject Us to the Despotism of the Peticcoat, I hope General Washington, and all our brave Heroes would fight.”

Abigail responded on 7 May,<sup>18</sup> saying: “I can not say I think you very generous to the Ladies, for whilst you are proclaiming peace and good will to Men, Emancipating all Nations, you insist upon retaining an absolute power over Wives.” But clearly this plea had no impact on Adams. On 26 May he wrote to James Sullivan condemning a proposal he had made for broadening the franchise for men.<sup>19</sup> If we do that, how can we justify excluding women? It is because:

[T]heir Delicacy renders them unfit for Practice and Experience, in the great Business of Life, and the hardy Enterprizes of War, as well as the arduous Cares of State. Besides, their attention is So much engaged with the necessary Nurture of their Children, that Nature has made them fittest for domestic Cares.<sup>20</sup>

---

<sup>16</sup> Vol. 1, p. 518.

<sup>17</sup> *Id.* at 519.

<sup>18</sup> *Id.* at 520.

<sup>19</sup> *Id.* at 394.

<sup>20</sup> *Id.* at 395.

He concluded by saying:

Depend upon it, sir, it is dangerous to open So fruitfull a Source of Controversy and Altercation, as would be opened by attempting to alter the Qualifications of Voters. There will be no End of it. New Claims will arise. Women will demand a Vote. Lads from 12 to 21 will think their Rights not enough attended to, and every Man, who has not a Farthing, will demand an equal Voice with any other in all Acts of State. It tends to confound and destroy all Distinctions, and prostrate all Ranks, to one common Levell.<sup>21</sup>

### F. Slavery

Slavery existed in the United States, yet was inconsistent with the ideals upon which independence was asserted and the notions underlying most of the Constitution. As a result, issues relating to slavery were constantly before the Framers in the Convention. Again the absence of a conventional index makes it difficult to pick out all of the places at which slavery issues were discussed. But every person interested in the history of slavery and the modern problems of seeking equality for blacks and other minority groups must read Chapter 15 of the first volume—Equality.<sup>22</sup>

The editors have a useful discussion in their introduction to this chapter. Much of the chapter deals with other issues relating to equality but they all relate in a general way. In fact, one of the more fascinating discussions of problems of equality is The Putney Debates<sup>23</sup> held in 1647 by Cromwell and the officers and men of his army—nine pages of surprisingly sophisticated discussion. But slavery issues are overtly or covertly involved in almost all of the excerpts.

Issues that trouble us today are brought out in excruciating form in many of these excerpts. On these issues many of our traditional heroes do not look good by modern values. Patrick Henry recognizes the arguments against slavery but says: "I am drawn along by ye. general inconvenience of living without them, I will not, I cannot justify it."<sup>24</sup> Jefferson illustrated the disdain and fear of blacks by whites.<sup>25</sup> Few if any of the leaders were willing to assume that blacks could become citizens with all the freedom of whites. Many saw as the only solution finding some other place in the world where the blacks could govern

---

<sup>21</sup> *Id.* at 395-96.

<sup>22</sup> *Id.* at 495.

<sup>23</sup> *Id.* at 501.

<sup>24</sup> *Id.* at 517.

<sup>25</sup> Vol. 1, p. 534.

themselves and then export them. So much is contained in these excerpts—and almost all of it is relevant to our modern problems.

#### CONCLUSION

Kurland and Lerner have given us a remarkable tool for understanding the Constitution. History is now presented in a way that makes it easy to use. If only these volumes came out of the Bicentennial Celebrations, the occasion would be a success. The message to all is to use these volumes, not to ignore them. The reader will find that such use will sharpen understanding, improve scholarship or briefs, and often will be fun. Where else can one learn that the yard was fixed as the exact length of the arm of King Henry I,<sup>26</sup> or that the inch was the length of three grains of barley,<sup>27</sup> or read Jefferson's proposals for coinage?<sup>28</sup>

Read and enjoy!

---

<sup>26</sup> Vol. 3, p. 1.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.* at 7.

