

**CONSTITUTIONAL
CONVENTIONS:
THEIR NATURE, POWERS,
AND LIMITATIONS**

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Constitutional conventions: their nature, powers, and limitations by Roger Sherman Hoar

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THEIR NATURE, POWERS, AND LIMITATIONS

BY

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FORMER STATE SENATOR AND ASSISTANT ATTORNEY GENERAL
MEMBER OF THE COMMISSION TO COMPILE INFORMATION AND DATA
FOR THE USE OF THE MASSACHUSETTS CONVENTION
OF 1917

"A frequent recurrence to fundamental principles
is absolutely necessary, to preserve the blessings
of liberty."



BOSTON
LITTLE, BROWN, AND COMPANY
1917

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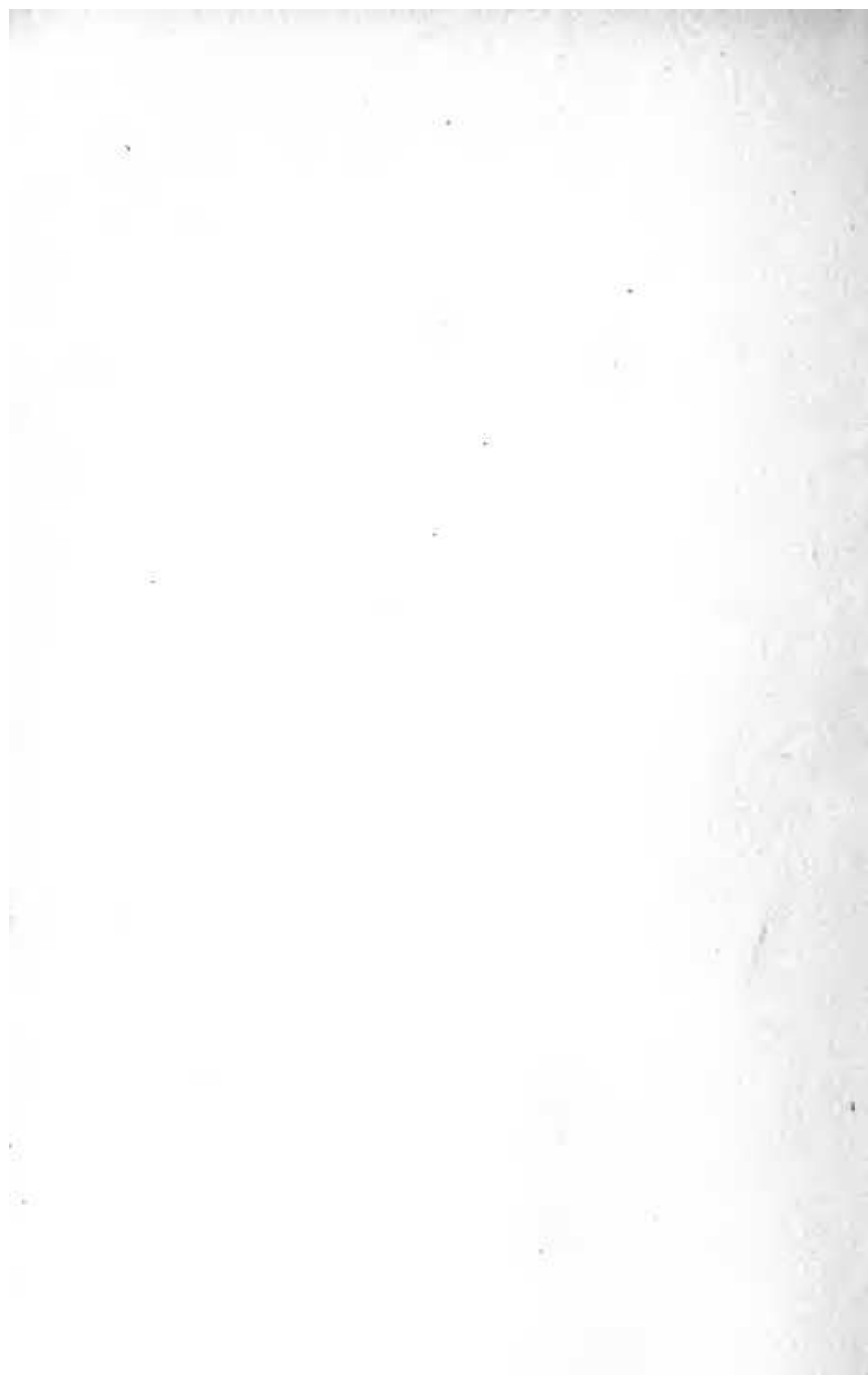
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PREFACE

THE impendency of constitutional conventions in Illinois, Indiana, Massachusetts, Nebraska and New Hampshire, has stirred up a vast amount of legal and lay discussion as to the nature and powers of such bodies. The Illinois, Nebraska and New Hampshire conventions are expressly authorized by the constitutions of those States. But the Indiana and Massachusetts conventions, not being so authorized, are generally regarded as being revolutionary, and are considered by many to be wholly unconstitutional and void.

Where can one turn for authoritative information on these questions? The only treatise exclusively on Constitutional Conventions is the one by Judge Jameson, published in 1867, and to some extent revised in 1887. Even in its day, this book was rendered less valuable by the fact that it was written to support a preconceived theory, in the interests of which theory Judge Jameson freely distorted both law and facts.¹ To-day this book is obsolete (most of the judicial decisions on the subject being since 1887), and is out of print.

The fact that there is no modern or even ancient accessible work on the nature and powers of constitutional conventions, has led me to attempt to fill the gap with the present book, which represents no preconceived theory, but rather merely an impartial collection of all the available law and precedent.

¹ "Judge Jameson's work constructed a theory regarding constitutional conventions, which conformed more or less closely to the facts, but in which the facts were subordinated to the theory." *Dodd*, p. vi. But Jameson, speaking from the grave as it were, in reply to Dodd and the present author, says: "which, in substance, is an intimation that this work is what the Germans call a *tendenz* work, written to maintain a particular thesis, the subordination of the Constitutional Convention to the law of the land. . . . what work upon history or constitutional law was ever written which was not a *tendenz* work in the same sense; that is, written from some special point of view to establish truths, of which the author is strongly convinced, and to refute errors deemed dangerous, and, if not combatted, likely to prevail?" *Jameson*, pp. 656-657.