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## Recent Legal Literature

Floyd R. Mechem  
*University of Michigan Law School*

John R. Rood  
*University of Michigan Law School*

Floyd R. Mechem  
*University of Michigan Law School*

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## RECENT LEGAL LITERATURE

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JUDSON ON TAXATION.—A Treatise on the Power of Taxation, State and Federal, in the United States. By Frederick N. Judson of the St. Louis Bar. St. Louis: The F. H. Thomas Law Book Co. 1903. 1 Vol. 8 vo. pp. xiii, 868.

This is a treatise upon a comparatively narrow but exceedingly important branch of the law of taxation. It is not like Judge Cooley's standard work—a new edition of which is understood to be now on the press—a treatise upon the law and procedure in taxation, state and federal; it deals simply with the *power* to tax, and it covers only a portion of this field.

The cases cited are comparatively few in number—about thirteen hundred—and they are chiefly taken from the federal reports. In the language of the preface: "It is the aim of this work to show the limitations of the taxing power of the state and of the federal government so far as these limitations have been declared and expounded by the supreme court of the United States. Decisions of the state courts and inferior federal courts have been cited as applying or illustrating the limitations thus declared." No attention, therefore, is paid to the general questions of the nature and theory of taxation, of assessment, apportionment and equalization, of uniformity and equality, of redemption and sale, of tax certificates and tax deeds, of remedies to enforce or to defeat collection, and the like. The scope of the work may be discovered by a statement of the chapter headings: I. Limitations upon state taxation growing out of the relations of the state and federal governments. II. Contracts of exemption from taxation. III, IV, V. Regulation of commerce, VI. Regulation of commerce—The taxation of steamboats and vessels. VII. Taxation of interstate commerce. VIII. Valuation of interstate properties for taxation. IX. Taxation of national banks. X. The fourteenth amendment. XI. Due process of law in tax procedure. XII. Due process of law and the public purpose of taxation. XIII. Due process of law in special assessments for local improvements. XIV. Due process of law and the jurisdiction of the states. XV. Equal protection of the laws. XVI. Equal protection of the laws in the valuation of property. XVII. Taxing power of congress. XVIII. The enforcement of federal limitations upon the taxing power.

No one who has attempted to keep in touch with the development, in recent years especially of the power of taxation as affected by the limitations laid by the federal constitution upon both state and federal action, can read this list of subjects and fail to be impressed with their interest and importance. Whatever goes to the root of the matter, whatever is more than mere administration, whatever is not mere detail or local issue, is represented here. Of increasing interest and importance are the questions growing out of the limitations put upon state action by fourteenth amendment in the requirement of due process of law and the guaranty of the equal protection of the laws.

Mr. Judson has approached his subject with an intelligent perception of the questions involved; he is manifestly familiar with the material; his system of analysis is clear; his grasp upon the salient points is strong and firm;

and he has stated his conclusions in direct and vigorous language. The result is a distinct contribution to a difficult subject and Mr. Judson's book will be welcomed by the profession.

Quotations from the cases are numerous and extensive, and while they have helped to swell the volume of the work, they will doubtless be useful to those who have not access to the original reports. The large type employed and the liberal spacing make easy reading of the page, though at the expense of added volume. The mechanical execution is excellent.

FLOYD R. MICHEN

LAW OF JUDGMENTS.—By Henry Campbell Black, 2d ed., Oct. 1, 1902, 2 vols., 8 vo., pp., cc ii, 1892, law sheep, \$12.00, West Publishing Co., St. Paul, Minn., and Bancroft-Whitney Co., San Francisco, Cal.

We have here two rather large volumes, of which the printer and binder need not be ashamed. The text is in long primer, the notes single column in brevier, both leaded.

The first edition of this work, brought out in 1891, was the first general law text published by the West Publishing Co., which had up to that time devoted its attention to completing the Reporter System. The only other American work covering the whole of the same subject at that time published was Mr. Freeman's, the third edition of which was then ten years old. The great advertising and selling facilities of the publishers were centered on this book, and it immediately obtained a large sale and general popularity.

The principal works treating of parts of the same subject that have appeared since the first edition of Mr. Black's treatise, are: The fourth edition of Freeman on Judgments in 1892; Judge VanFleet's excellent treatises on Collateral Attack in 1892, and Former Adjudication in 1895; Judge Bailey's treatise on Jurisdiction in 1899; and a second edition of Brown on Jurisdiction in 1901.

It will be seen that none of the above works published since the first edition of Black on Judgments, nor all of them combined, cover all of the matter falling within the scope of that work, except the last edition of Freeman on Judgments, now ten years old. By count it is found that over seven hundred cases on the law of judgments were digested in the Annual of 1898 in over nine hundred paragraphs. At that rate there must have been between seven and eight thousand cases on the subject decided since the last edition appeared; and of these Mr. Black seems to have cited over six thousand, as the table of cases cited in the first edition showed about ten thousand, and the last shows over sixteen thousand. On these facts surely no one will deny that there is sufficient need for a new edition of this book, on a subject that has required and is requiring as much attention from the courts as any other topic of the law except Appeals and Criminal Law, as shown by the space occupied in the annual digests. In the Century Digest more than a volume each is given to Appeals and Criminal Law. Judgments occupies a whole volume. The only other topics requiring equal space, so far as the publication has progressed, are: Private Corporations, Bills and Notes, Evidence, Executors and Administrators, Executions, Insurance, and Mortgages. On which of these are there not more texts of recent date?

Mr. Black is clear in his statements and apt in illustration, and the present edition is far nearer a complete treatise on this important subject than

any other work that has yet appeared. Persons possessing or having access to the Reporter System, L. R. A., Am. St. Rep., Am. Rep., or Am. Dec., will be pleased to know that the notes on judgments as well as the cases reported in any of these are made available to them by this edition, by referring to all of these reports as well as to the official volumes, whenever a case reported in them is cited. The work is brought down to 1901 and a few cases decided in the first part of that year are cited.

J. R. ROOD

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AMERICAN STATE REPORTS. Vols. 86 and 87. San Francisco: Bancroft-Whitney Co. 1902.

These volumes maintain the high standard of usefulness set by their predecessors. See 1 MICHIGAN LAW REVIEW, 155. Vol. 87, for example, contains, in addition to many shorter notes, exhaustive monographic notes on EMBEZZLEMENT, 28 pages; RELEASE OF PRISONER ON HABEAS CORPUS AFTER JUDGMENT AND SENTENCE, 38 pages; PROCEEDINGS AGAINST UNKNOWN OWNERS, 11 pages; ABANDONMENT AND FORFEITURE OF MINING CLAIMS, 12 pages; ASSIGNMENT OF LIFE INSURANCE POLICIES, 35 pages; DUTY OF MINE OWNERS TO PREVENT INJURY TO EMPLOYEES, 38 pages; DOCKETING OF JUDGMENTS, 9 pages; POWER OF MUNICIPALITIES TO REGULATE OR PROHIBIT CEMETERIES, 6 pages; ADVERSE POSSESSION OF LANDS DEVOTED TO PUBLIC USE, 7 pages; FRAUDULENT AND OVERISSUED CORPORATE STOCK, 13 pages. This statement will convey an idea of the scope and extent of the annotation.

The greatest defect in these volumes is the absence in many cases of adequate statements of the facts. Thus, for example, in *Wofford v. Meeks*, found on page 66, the chief questions were whether a certain publication was libelous per se, and whether the plaintiff was so aimed at by it, that he might maintain an action. The opinion does not give the language of the publication either in full or in substance. The language is given however in the original report 129 Ala. 349; and in 30 So. Rep. 625. The case is reported also in 55 L. R. A. 214 and the language is given there. 87 Am. St. Rep. on the other hand does not give the language, but leaves the opinion suspended in the air as a wholly theoretical discussion about the meaning and effect of words which do not appear. The court speaks frequently of "the language employed in the publication," but the case as here reported does not disclose what that language was. Such a report of a case is of very little value to anyone.

FLOYD R. MICHEN