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Recent Legal Literature

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RECENT LEGAL LITERATURE

RECENT BOOKS ON ROMAN-AMERICAN LAW.

NOTES TO THE SPANISH CIVIL CODE, showing changes effected by American legislation, with citations of cases from Philippines Supreme Court. By Charles A. Willard, Associate Justice Supreme Court of the Philippines. Manila, 1904. pp. xi, 106.

STUDIES IN THE CIVIL LAW and its relations to the jurisprudence of England and America, with references to the law of our insular possessions. By William Wirt Howe, LL.D., of the Bar of New Orleans. Second edition. Boston: Little, Brown and Company, 1905. pp. xiii, 391.

The Notes to the Spanish Civil Code owe their existence to the fact that while the Spanish Code of Civil Procedure has been supplanted in the Philippines by an American Code of Civil Procedure, the revision of the Spanish Civil Code, projected by the Civil Commission soon after the American occupation of the Islands, has not yet been completed. Judge Willard discusses articles of the latter code which may have been repealed by implications in the new Code of Civil Procedure. One would think that the book would be indispensable to every member of the Philippine Bar until the work of codification of the Spanish civil law is completed. Judge Willard has done his work carefully with full reference to the legislation since the American occupation and the decisions of the courts in interpretation thereof, where such decisions exist. In the absence of authoritative judicial interpretation the author, a member of the Supreme Court, gives his own logical interpretation.

It is of interest to those who may be noting the general trend in the development of law to observe that the changes to be made in the projected revision of the Civil Code are likely to be mainly in the field of law affected by emotional relations, as appears, for example, in the complete change in marriage law, shown in the commentary on Arts. 42-107 of the Spanish Civil Code, thus giving further verification, if such were necessary, of Bryce's dictum on this feature in the growth of law. Cf. Bryce, *Studies in History and Jurisprudence*, p. 123; also this Review for January, 1905, p. 189. Dr. Howe, who has so long occupied the vantage ground for accurate and scholarly observation of Roman-American law held by a well trained member of the Bar and Court of Louisiana, gives us in this second edition of his *Studies in the Civil Law* a book that should be in the hands of every student of law or lawyer who wishes to see from a practical standpoint the relation of our own law to that of our island possessions and to that of the State of Louisiana, incidentally also to the law of the States carved out of the Louisiana Purchase or out of our acquisitions from Mexico. The second edition is a very material enlargement and improvement of the first edition, published in 1896. Seven new chapters have been added, six of them on the science of law in general and of the history of Roman classic law as

adopted by European countries and their dependencies, and one on the Matrimonial Community, that distinctive and interesting feature of the Spanish system and its derivatives.

In a paper read before the American Social Science Association shortly after the acquisition of our island possessions (see Proceedings A. S. S. A., May, 1900) Judge Howe advocated the course in regard to changes in the law of our new territory which has since been followed almost to the letter by the American authorities in Porto Rico, namely, that the amalgamation of the two systems should be conducted along the same lines already found so satisfactory by the Louisiana jurists in their treatment of a situation almost identical with that confronting us in Porto Rico and the Philippines. This second edition of the *Studies in Civil Law* has been enlarged and rewritten with the evident design of furnishing to the American student of our enlarged and composite Spanish-American system an institutional treatise suited to his purpose and it accomplishes the end very satisfactorily. It is to be regretted that Judge Howe has omitted the bibliography given in the first edition, for it is with this question of sources of information that the American lawyer in attempting to deal with questions of Roman-American law finds his greatest difficulty. It is to be hoped that this defect may be remedied in some subsequent edition by furnishing a tolerably full list of French and Spanish legal bibliography, with some account of the libraries containing collections of them accessible, without too much trouble, to the American lawyer and student.

JOSEPH H. DRAKE.

THE LAW OF INTERSTATE COMMERCE AND ITS FEDERAL REGULATION. By Frederick N. Judson of the St. Louis Bar. Chicago: T. H. Flood & Co., 1905. pp. xix, 509.

This is a book born in due time. Questions growing out of the subject with which it deals were never more important than now and are almost certain to have added importance in the near future. While it is quite possible, if not probable, that the law of this subject will be materially modified at no distant day, still the book will certainly be very useful for having gathered in a single volume the law on this very important subject. It would be difficult to suggest one more important to the commercial and industrial welfare of our country.

The author has given the legal history of the constitutional provision granting power to the United States, through Congress, to regulate commerce between the States, as disclosed in legislation under it, in the decisions of the courts and of the Interstate Commerce Commission. The book is divided into two parts. "Part I" contains the general discussion of the principles involved and "Part II" contains the Interstate Commerce Act and its amendments; the Anti-Trust Act of 1890; the Expedition Act of 1903; the Act establishing the Department of Commerce and Labor of 1903; the Safety Act of 1893 and its amendments; the Accident Statute of 1901; the Trade Union Incorporation Act of 1886; the National Arbitration Act of 1898 and the Rules of Practice established by the Commission, with forms for

procedure in cases brought before it. The Interstate Commerce Commission Act, the Anti-Trust Act and the Safety Acts, are thoroughly annotated.

The plan of treatment and scope of the work have enabled the author to bring the body of law upon this important subject into most accessible and convenient form. The discussion is clear and discriminating and the annotations full and apparently accurate.

Comparatively few cases outside those decided in the Federal courts and before the commission are used, but this is as would be expected from the very nature of the subject.

The book serves its purpose exceedingly well and will be welcomed by students and practitioners in this interesting branch of the law. The publishers have evidently been exceedingly careful in their exercise of taste and judgment that the book should not suffer on its mechanical side. From this point of view it is all that could be desired.

V. H. LANE.

THE LAW OF CRIMES. By John Wilder May, Chief Justice of the Municipal Court, and late prosecuting officer for Boston; third edition, edited by Harry Augustus Bigelow, assistant professor of law in the law school of the University of Chicago. Boston: Little, Brown & Co., 1905. pp. liv, 366.

Nothing need be said of the merits of Judge May's well-known little book on crimes. In the first edition, he arranged the matter under the various crimes in alphabetical order, for the convenience of practicing lawyers, admitting that a more scientific method would be more suitable for the student; but as it is essentially a student's book, this plan was abandoned in the second edition, and the matter arranged after the plan of Bishop and Blackstone, which plan is also retained in the present edition.

The work has grown out of all recognition of the original, by reason of the additions of the editor; of the last two editions. Mr. Bigelow's additions are about equal in amount to the original work. The additions are mostly incorporated in the text and distinguished from the original only by a table at the beginning of the book. The whole work has been re-sectionized in each edition. The index is but slightly changed. The list of cases cited seems considerably increased in this edition. The added propositions have of course required citation of authority, and some cases have been added in support of statements made in former editions. The new citations seem to be chosen with discretion. The natural result of increased detail is obscurity of outline, an evil difficult to avoid in any case, especially so in adding to a fixed text. Whether the increased size of this edition will be an improvement, will perhaps depend on the needs of the user. We feel sure that everyone will approve and appreciate Mr. Bigelow's policy of citing cases included in the books of selected cases on criminal law. Mikell's, Chaplin's, and Kenney's case-books are cited whenever cases in them are referred to.

J. R. ROOD.

DANIEL WEBSTER, THE EXPOUNDER OF THE CONSTITUTION. By Everett Peppercell Wheeler. New York and London: G. P. Putnam's Sons, The Knickerbocker Press, 1905. pp. v, 188.

To attempt in less than two hundred pages to portray Webster as the "Expounder of the Constitution" is a task to be undertaken by few men. Mr. Wheeler has essayed it and been reasonably successful. The reader will quite likely be so well satisfied with what he finds in it as to wish there were more of it.

The author tells us that it is the result of his thought and gleaning in odd hours for a score of years, and the book gives evidence of careful work by one taking pleasure in it. It is a book the professional man will delight in, and the layman need not hesitate to take it up because of its title.

It is not a "Life of Webster," nor will we find here the text of his great speeches or arguments. It is made up of brief statements of the cases in which the great arguments of Webster were made and of his great speeches in defense of the Constitution and the Union, with explanatory comment by the author, individual cases or speeches being treated in separate chapters.

There is presented here in brief form a very clear view of the great work of a great man and the reader cannot but be impressed with the importance of that work to the country he served.

Though it comes into a field productive of much that is profitable reading for one interested in the life and work of the great statesman-lawyer, this book should not for that reason be overlooked. No little of interest and value is added by the impressive portrait from the etching by Hollyer, after the painting by Ames, which serves as a frontispiece.

V. H. LANE.

A TREATISE ON THE LAW OF REAL PROPERTY. By Frank Goodwin, A.M., Emeritus professor of the law of real property in the law school of Boston University. Boston: Little, Brown and Company, 1905. pp. lii, 531.

This is a book in regular law style, containing 460 pages of text, 70 single column pages of index, and 52 of tables of contents and cases cited. From the table it would appear that something like 1,800 cases are cited. From the preface we learn that the author was for seventeen years lecturer on the law of real property in Boston University, and that the book is intended to be useful to students of law.

The order of treatment is as follows: A sketch of the feudal system, the statute *Quia Emptores*, hereditaments corporeal and incorporeal, estates in fee, life estates, dower, curtesy, landlord and tenant, reversion and remainder, fees-tail and conditional, descent, uses, contingent remainders, co-ownership, cross-remainders, rule in Shelley's case, rule in Wild's case, failure of issue clauses, limitations referring to attaining age, reversion on contingent remainders, perpetuities, rights of entry, reservations and exceptions, uses and trusts, powers, covenants, mortgages, licenses and easements, adverse possession, incorporeal rights. The very noticeable departure from the usual plan of arranging the material may seem confusing to some; but

the author explains the reason to be that the effort is made to lead the reader up the steps of a ladder.

The author seems to understand the law of his subject well, and his style is direct, simple, and readable; but he has made no effort to present the subject in entirety, so that an orderly arrangement of the branches would appear to the student; nor are there any sections nor division headings to the chapters, but a continuous discourse. It would seem like a course of lectures on real property. As the eye drops to the footnotes, we recognize many familiar leading cases, especially from the English courts; but of the American cases Massachusetts seems to be much preferred; and we observe that outside of that State the official reports are seldom cited, reference being made only to the reporters, except as to cases before the reporters began. Western decisions are seldom noticed. Most of the modern cases cited are from the Atlantic and Northeastern reporters. The *L. R. A.*, *Am. Dec.*, *Am. Rep.*, and *Am. St. Rep.* are entirely ignored.

JOHN R. ROOD.