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Recent Legal Literature

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RECENT LEGAL LITERATURE

THE INSTITUTES—A TEXTBOOK OF THE HISTORY AND SYSTEM OF ROMAN PRIVATE LAW. By Rudolph Sohm, Professor of German Law and Ecclesiastical Law in the University of Leipzig. Translated by James Crawford Ledlie, B.C.L., M.A., of the Middle Temple, Barrister-at-Law, and of Lincoln College, Oxford. With an Introduction by Erwin Grueber, Dr. Jur. M.A., of Balliol College, Oxford. Professor of Roman Law and Jurisprudence in the University of Munich, Late Deputy Regius Professor of Civil Law and Reader in Roman Law in the University of Oxford. Third Edition. Oxford: At the Clarendon Press. London, New York and Toronto: Henry Froude. Also sold by Stevens & Son, Limited, 119 and 120 Chancery Lane, London, 1907, pp. xv, 606.

The third edition of this excellent manual of Roman Law has the almost unique characteristic, for a later edition, of being somewhat less bulky than its predecessors. It contains thirty-three pages less than the second edition. This decrease in number of pages seems, however, to have been brought about principally by a change in the typographical arrangement rather than by any material cutting of the text. The Introduction by Professor Grueber is somewhat shorter than his introduction to the previous edition, but this is more than compensated for by the expansion in the section of the book dealing with the contract of sale. Professor Grueber has omitted from the present edition a part of his discussion of the German Civil Code, which had gone into effect just before the publication of the second edition of the Institutes. This third English edition is based on the twelfth German edition, which was published in 1905.

The six pages [pp. 397-403] that are added on the contract of sale increase very materially the value of the treatment of this subject, in the explanation of what is meant by the terse statements of the second edition in regard to the warranty against eviction and the warranty against latent defects. The statement in the old edition that, "wherever the object of a contract of sale is a specifically determined article (the rule is different where the object is generically determined); the *periculum rei* must be borne by the purchaser as from the moment of the conclusion of the contract," is supplanted in the last edition by a very illuminating discussion of the difference in this respect between the sales of things "specifically determined and things generically determined."

It may be suggested by one who has had several years' experience in teaching classes of some size from this text-book that a like fuller treatment of several other difficult points would make the book more useful to the American student. This might be applied to the subject of correal and solidary obligation and to some explanation of the puzzling fact that "consideration" as such does not appear in the Roman contract. A like expansion in the treatment of juristic possession would also be helpful, with the presentation in foot notes or otherwise, of Ihering's historical explanation of Savigny's logical theory.

J. H. D.

HANDBOOK OF THE LAW OF SURETYSHIP AND GUARANTY. By Frank Hall Childs, LL.B., St. Paul, Minn.: West Publishing Co., 1907, pp. x, 372.

This book is the latest addition to the Hornbook series. The author declares that "the aim of the work is to present the principles of the modern law of suretyship in a concise and systematic form, for the use of the practitioner and student." The text covers four hundred pages in style and arrangement in harmony with the preceding volumes of the series. It is safe to say that at least a third part of each page on the average is devoted to the citation of authorities and occasional brief extracts therefrom. The cases to which reference is thus made will approximate five thousand in number. After the text proper comes an appendix containing a few forms, the chief feature of which is to contrast a bond purporting to be drawn in the interest of the obligors with one purporting to be drawn in the interest of the obligees. Brevity is not the characteristic of either. The index seems to be complete and is very usable. The work bears evidence of being constructed after the plan of the publishers rather than after the plan of the author. On the whole we think the work of Mr. Childs is less adapted to the class room than to the office, and that the practitioner will find in text and notes a ready means of acquainting himself with questions involving the law of suretyship and guaranty.

R. E. B.