
Professor Meili in this work hails the automobile as the worthy comrade of railroad, telegraph, and telephone in the new era of free and quick international communication. In giving its early history, he refers (p. 2) to one which France exhibited at the St. Louis Exposition, built in 1769, and quotes from the work published last year by Xenophon Huddy (Y. L. S. 1901) on the Law of Automobiles, to show that the first beginnings of the invention were in the seventeenth century. He predicts its increasing use in war, for purposes of which it was first seriously utilized by Austria (pp. 4, 128).

In Europe the regulation of automobiling is commonly left to orders of the police and administrative authorities, but three of the powers, England, Denmark and the Netherlands, have made it the subject of formal statutes (pp. 6, 9). The automobilist on the continent is continually running from the sphere of one set of rules into that of another, and what these rules may be it is not always easy for the traveller to ascertain (p. 17; note), nor even the local name for the vehicle which carries him (p. 20).

The right to drive an automobile is denied in parts of Europe to those under seventeen or eighteen years of age, and in other parts to those under twenty-one (p. 39). In several countries, personal examinations are made into the qualifications of motorists. France extends hers to their prudence, coolness, quickness, rapidity of glance, and appreciation of the necessity of using highways for general public travel (p. 40). Provision is made in most countries for excluding those from serving as chauffeurs who have proved themselves unfit, and in some for their sentence to imprisonment in case of serious damage done to others (p. 150) or of an attempt to speed away after accident and escape detection (p. 157).

Germany has been behind France in providing compensation for those injured by automobiles, because of the general provision in the Code Napoléon (Art. 1322) that every act whatever of one man to the damage of another obliges him by whose fault it occurred to make due reparation (p. 73). European automobilists can now insure themselves at quite moderate rates against damage from accidents; the premiums varying with the rate of horse power of the machine and the amount insured (p. 89). Belgium has recently undertaken to indemnify those injured by an automobile, when the driver escapes detection and arrest. The amount of the indemnity may be made
the subject of an agreement or of a law-suit, and it is paid from a fund created by an impost of five per cent on the taxes paid upon each automobile (p. 92) and by making the automobilist, chargeable with an accident, who is found, pay double damages, half to go to the State (p. 122) for this purpose.

Professor Meili refers to the wish, expressed in Mr. Huddy’s treatise, that there were one law for automobiling throughout the United States, as an aspiration that might well be universal in Europe (p. 184).

This work has the advantage of being by no means the first in the field. The author is therefore able to refer freely to his predecessors, and use their positions as stepping-stones for further advances. The reader of his book would not be able to travel in a motor car over Europe, secure of knowing every rule that he might transgress, but he would be put on the track of many of them and would at least feel that, if he failed to use due care, he would get prompt, if not full justice. 

S. E. B.


The rapidly increasing desire for a closer view and wider knowledge of German institutions renders such a book as this specially welcome. Dr. Schuster has carried out his evident aims in a highly practical manner, the result being that for the first time in our own language and with a directness only rendered possible through recent imperial law reform, the outlines of German law are as accessible to us as are those of the common law itself. While, however, the codification which became finally effective in 1900, has done much for the simplification of German jurisprudence—uniformity being now established in many departments where previously there had reigned the infinitely varied differences bequeathed by medieval confusion—nevertheless an immense field still lies open to purely state activity (Landgesetz). This most important fact is duly appreciated by our author (in his introduction), and he briefly summarizes certain general positions of the Introducing Statute (Einführungsgesetz), through which reservations are provided in favor of individual legislation by the States as against the Empire. Later on, too, and as subjects suggest a reference to the matter, many such reservations are noted in greater detail. We could wish, notwithstanding, that the distinctions thus arising had been more sharply emphasized. That there is need for this is seen in the striking recurrence (in sections 56—152 of the Einführungsgesetz) of the expression “unberührt bleiben” (there remain untouched); this appears not less than ninety-two times in these sections. Noteworthy among the subjects thus excepted from modification by the civil code, is that of the privilege still possessed by reigning families and descendants of houses mediatized after the fall of the old empire to legislate in matters touching their family property and affairs; the faculty
in question is known as Autonomie, and by its exercise hereditary property and effects (Stammgüter) are withdrawn from alienation and preserved within the mystic circle of those possessing Ebenbürtigkeit (equal birth rank). Through this endowment modern representatives of individuals once entitled to membership (Mitgliedschaft) in the Romano-Germanic Reichstag are, in the department of family law, upon a level with those actually occupying thrones; they are the "Reichsstandschaft—der hohe Adel." Their number, in all Germany, however, is very small. At Vienna, in 1815, some twenty-two of these "standesherrliche" families were recognized in Prussia, for example, as thus set apart from common men. Prominent names among them are those of Stollberg, Hohenlohe, Schönburg.

While Dr. Schuster briefly sketches, at the outset of his work, preliminary steps leading to the formation of the civil code (Bürgerliches Gesetzbuch), he fails to give us any glimpse either of the literature of the subject or of the men whose labors, long ago, laid a foundation for what has been accomplished to-day. Much would be gained by some allusion to the discussions between Thibaut and Savigny. To the impulse given by the former was due that outburst of polemic which signaled the year 1814 and the years following, and whose immediate result while, in a certain sense, negative, successfully brought into a clear light those principles which merely waited the coming of appropriate political conditions to realize the best hopes of their illustrious protagonist. In this connection, too, we miss a reference to the long and picturesque process known as the Rezeption of the Roman law, nor have we any indication of the profound influences which sprang from the teaching and writings of Hugo, Eichhorn, Wächter, and other heroes of modern legal progression. While the first code-committee (of 1874) brought forth what was considered a text-book of Roman law institutes rather than a statute for the guidance of practical men and thus incurred much reproach, it is, nevertheless, true (as remarked by Dr. Schuster) that the law of Rome forms the basis of the existing code. The student, therefore, requires some preparatory knowledge of the system hitherto obtaining in Germany—and of which no adequate account is to be found in our own language—before he can fitly approach the statements and analyses of present-day doctrine so carefully and exactly furnished in the book before us. Despite a lack of such aid in our author's pages, it is a pleasure to call attention to his happy employment of the comparative method. This feature of the book lends to it a distinct value. From both Roman and English sources are constantly drawn parallels and illustrative references lighting up many a chapter, and imparting great charm to the whole; instances of such treatment are to be found in chapter 4, on "circumstances affecting liability;" in chapter 5, on "discharge of obligations;" in chapter 7, on "transfer of rights and duties;" in the discussion touching "purchase and sale" at page 209; "bailment," at page 297; "the general treatment of torts;"
at page 334 seq.; "servitudes" (Dienstbarkeiten, Reallasten), at page 415 seq.; "marriage-law," at page 489, where we have an exceptionally valuable tabular comparison with English regulation; and the entire subject of "inheritance," which forms the closing portion of the work. Excellent, also, is the notice, page 291 seq., concerning "agreements between authors and publishers."

Prefixed to the introduction are tables showing titles and dates of the recent codes and statutes both German and English commented upon together with English cases cited in the text, and reference-lists of passages cited from the civil and commercial codes, the introducing statute, and the civil procedure act. In the matter of rendering into English the somewhat entangling expressions so characteristic of German legal terminology, our author is, in the main, very fortunate. We should, perhaps, choose citizenship as more closely expressing the conception denoted by Staatsangehörigkeit than nationality given as its equivalent by Dr. Schuster. The difficult term Rechtsgeschäft is translated "Act-in-the-law." This expression, naturalized in jurisprudence since the days of Hugo and around which there has arisen a vast literature, is intended to connote the idea of the personal element present in the generation of rights, and thus signifies a declaration of volition through which a right becomes founded, changed, or abolished. Dr. Schuster's characterization, in line with that of Windscheid, is "a manifestation of the human will intended to create an effect recognized by law." Of the many definitions to be found in modern treatises probably the clearest is given by Bekker who considers the term as expressing the conception of a juristic actuality whereof will-declaration forms an indispensable element. Dr. Schuster's view of the several departments into which the subject naturally falls—capacity, formation of agreements, interpretation, etc.—is close and sufficient.

In conclusion, we heartily congratulate the author of this valuable work. That it will open new aspects of useful knowledge to many seems well assured. Its appearance is a hopeful sign of the times.

G. E. S.