

## BOOK REVIEWS

*The Law of Real Property.* By Raleigh Colston Minor. 2 vols. pp. 1835. Anderson Bros., University of Virginia. 1908.

More than any other branch of the law, that of Real Property has developed in the different states along different lines. Starting with the common law, or intending to do so, each state has built up a superstructure of written law, judicial legislation, and construction, which, in some instances, threatens to crush the foundation. There is, perhaps, one group of states in which the development of this branch of the law has been made with a fair degree of uniformity. Outside of this small group the law of Real Property so far lacks uniformity that any composite general statement of it is impossible.

For any law school to undertake to teach the changes in the law of Real Property that have been made in all the states is plainly neither possible nor desirable. Nevertheless, instructors and students have heretofore labored under the disadvantage of being obliged to use text books written to comply with the insistence of publishers that any treatise on the law of Real Property of more than a very elementary character should be so compiled as to meet with a general sale among the lawyers of the country. In order to sell such a book to each of, say, forty men practising in as many different jurisdictions, it must contain a large amount of matter which is without interest to the thirty-nine others. This is all right for the practitioner—he can discriminate. But statements as to what the law is in this, that, and the other state only distract and confuse the student and throw an intolerable burden on the instructor.

Obviously, a text book for American students, even on the Common Law of Real Property, ought to be of American authorship, and instructors have had to choose between accepting such unsatisfactory American books as the publishers offered or of having books published at their own expense and risk. Although the best text books on this subject in general use in the schools to-day were written by eminent instructors, it is evident that the authors have all felt obliged to yield to the demands of the publishers.

But now comes Professor Minor's work, which, if it does not afford immediate relief to students in all the schools, is at least a

warning to publishers that the present state of affairs will not be allowed to go on indefinitely and that they must make up their minds to furnish books written with an eye singly to the student's use.

Every page, every paragraph, of this book shows that it was written for the student—the student of Virginia law. One of its many great merits, moreover, is that the law peculiar to Virginia is so distinct in statement from the common law that the former could easily be eliminated, leaving the material for an edition which would be better adapted for student use in all the states than any existing book with which we are acquainted.

We bear witness, after many years of observation in the South, that the lawyers who were graduated in law from the University of Virginia during the days of the late Professor John B. Minor, were among the best instructed men in the principles of the Law of Real Property that we ever met. This was not altogether due to the personal influence of the instructor. Those who have the good fortune to be acquainted with *Minor's Institutes* will understand what we mean when we say that Professor Raleigh C. Minor's work on Real Property shows that he has inherited his distinguished father's habit of analysis and singular powers of demonstration. Moreover, he has evidently learned to appreciate (a thing that so many instructors fail to do) the difficulties of the student mind in dealing with this most difficult branch of the law; and one's attention is quickly drawn to the clever way in which he smooths many of these difficulties over. To give only one instance of this: In treating of covenants running with the land (Chap. XVIII), he divides the subject into "covenants running with the land," and "covenants running with the reversion." How much simpler it is to start the student in these two separate channels of thought than to have to explain at length that the term "covenants running with the land" applies not only to covenants made by the grantor or lessor, but to those made by the grantee or lessee.

The author's complete grasp of the subject, his thoroughness of analysis, his happy way of putting things, and the care with which he avoids ambiguous statements make of his book the cleanest-cut exposition of the Common Law of Real Property that any American author has yet produced.

We do not mean to say that the book is perfect. We even take the liberty of thinking that here and there Professor Minor him-

self would make changes in a future edition. For instance, in speaking of the conveyance of a wife's land by fine or common recovery (Sect. 234), he sums up by saying: "And so, the practical result at common law was that he (the husband) could only claim curtesy in the lands of which the wife was *seised at her death*." This statement takes no account of lands of which the wife had been seised during coverture, but which were in the possession of a disseisor at the time of her death. This is mere inadvertence, for in a previous section (230) the right to curtesy in such case is stated. But what author ever produced a work of any magnitude without experiencing some cold shivers on reading his first edition? Such inadvertent expressions in Professor Minor's book are so rare that they only serve to make its unusual value as a whole stand out in bolder relief.

J. W.

*The Mystery of the Pinckney Draught.* By Charles C. Nott. The Century Co., New York. pp. 334. 1908.

To show that the paper delivered by Charles Pinckney in 1818, to the State Department was a true copy of his draught of the United States Constitution, is the task which the author has undertaken in this work. He attributes the failure of the copy to receive recognition to Madison, for he says: "Madison's comment and Story's silence have united to condemn the draught so effectively that while printed and reprinted it has been as unnoted as if it had never been written." p. 7.

The relations existing between Madison and Pickney are pointed out, as well as Madison's views of Pickney's ideas, and many reasons are shown why Madison should not be a witness against the authenticity of this copy, for, as the author says: "We must reject Madison as a witness because he rejects himself." p. 39.

"*The Observations on the Plan of Government*" which was published by Pickney, is pointed out as sustaining the genuineness of the copy, in place of being derogatory to it as Madison thought it was.

The author's conclusions dissipate all ideas of fraud, for he says that "the draught in the State Department agrees so closely with the draught of the Committee of Detail . . . that unquestionably the one draught must have followed the other." p. 273. Again, "the observations were printed during the lifetime of every member of the convention." p. 274.

Great research is displayed in the work, and the author has helped to clarify a situation which is beset with many perplexing difficulties. That we may have further light upon the subject is to be expected, for as the author says, p. 277: "Time which destroys, also discloses; and time may bring to light some record which will change the conclusions of to-day."

*H. J. C.*