

BOOK REVIEWS

The Evolution of the Civil Law. By Charles S. Lobingier, Shanghai, China. Published by the author. 1915. pp. 15.

A most welcome addition to American literature on Roman law is this learned work of Judge Lobingier. In his opening chapter this distinguished Federal judge and law teacher takes pains to emphasize the great *modern* value of Roman law and the *necessity* for its study in American law schools: not only does Judge Lobingier point out that Roman law is the mother of the Continental European and allied legal systems (*e. g.*, Spanish-American) as well as of Canon law, and that International law is closely related to the Roman, but also that "the Anglo-American law is profoundly indebted to the Roman."

After analyzing the present great study value of Roman law, Judge Lobingier holds—and *correctly*—that American law students need and should receive instruction in Roman law—"following immediately upon undergraduate work and preceding any considerable advance into the technical field of modern law. The gulf between these two . . . is very wide, but Roman law supplies the bridge which renders passage comparatively easy. The bridge is of little value if it is not to be used until the passage is accomplished by some other method, however laborious and fatiguing. . . . Roman law should be the first subject in the technical curriculum." That Roman law will sooner or later become a prescribed study of the first year in American law schools is an inevitable consequence of the present revival of the study of the Civil law in the United States.

In Judge Lobingier's book there is a special feature which will be found most useful: every chapter is preceded by an analytical syllabus of topics, which is often supplemented by copious notes to Roman law sources and the Modern Codes. His syllabus on Roman Criminal law (p. 96) is most praiseworthy for its comprehensiveness. It is hoped that in a later edition the author will write a text to go with those chapters which now contain only a syllabus.

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Clark on Corporations. By William L. Clark, Jr. Third Edition by I. Maurice Wormser. Published by the West Publishing Co., St. Paul, Minn. 1916. pp. xiii, 913.

The first edition of this work appeared in 1897, as one of the Hornbook Series. The author at that time was an instructor in law in the Catholic University of America at Washington, D. C., and had written the Hornbooks on Criminal Law, Criminal Procedure and on Contracts, all of which had been very well received. The work on Corporations was also well received. It was at once recognized as being as good a book as his work on Contracts, which had received much commendation. It has always been regarded as much above the average of the legal text books in the Series. The author stated in his preface that the entire work had been written from the cases themselves, and that throughout his work he had aimed at making the book a true reflection of the cases, and that none had been cited without personal examination. The book was truly a reflection of the cases. Its value would have been enhanced if the author had not so exclusively confined himself to a reflection of the cases, but had ventured more upon a discussion of the principles. When he did discuss principles, his discussion was discriminating and helpful. This was especially true of what he had to say upon the trust fund doctrine to which considerable space was given. In the new edition now published, the editor has not hesitated to express his own opinions freely, and has thereby added to the value of the work.

A second edition of Mr. Clark's work was published in 1907, being edited by Francis B. Tiffany. In that edition the inadequacy of the treatment in the first edition of such subjects as Joint Stock Associations, and of Memberships in Corporations was not remedied. But in the third edition Professor Wormser has seen fit to correct the deficiencies of the work in this respect. This is particularly true as respects Membership in Corporations. Some sixty pages of additional matter is accorded to that subject in this edition as compared with what appeared in the second edition. The next most notable addition is in the chapters devoted to the Powers and Liabilities of Corporations. The new matter on that subject, we observe, covers about thirty-five pages. And next come the chapters dealing with the Management of Corporations, which have been expanded by twenty pages. In fact the text of the original edition has been revised throughout.

This was made necessary by the rapid developments of the last decade. The meager treatment of torts and crimes accorded in the other editions has been in part corrected. In the second edition these subjects were disposed of in eight pages. In the new edition the editor devotes fourteen pages to the subject. But the treatment of the liability of corporations for torts is not yet as comprehensive as it should be. We find no mention made of the case of *The Johnstown &c. Railroad Co.* (1880) 80 N. Y. 27, in which it was held that a railroad corporation which without legislative authority had leased its road, was not thereby exempted from liability as carrier to a passenger injured by negligence during the lease.

No mention is made of the liability of corporations created for the purpose of maintaining a public charity for the wrongful acts of their agents or servants. The cases of *McDonald v. Massachusetts General Hospital* (1876) 120 Mass. 432, and *Perry v. House of Refuge* (1884) 63 Md. 20, and *Glovin v. Rhode Island Hospital* (1880) 12 R. I. 411, are important enough to be noted in so good a work as this really is.

The subject of taxation seems rather inadequately treated. The case of *Union Refrigerator Transit Company v. Kentucky* (1905) 199 U. S. 194 is not cited. That case held that the maxim *mobilia sequitur personam* is not to be applied to tangible personal property permanently located in another state where it is employed, protected and taxed, and that an attempt on the part of the state in which the owner is domiciled to tax such property amounts to a deprivation of property without due process. The case of *New York Central Railroad v. Miller* (1906) 202 U. S. 584 is also not cited.

These reflections are not made with any view of depreciating a very meritorious piece of work. Professor Wormser has greatly improved what was a very good piece of work when it came originally from the author. He has cited a great many new cases and added much valuable matter to the text. His work is deserving of high praise.

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