Yale Law Journal

Volume 20
Issue 5 *Yale Law Journal*

Article 8

1911

BOOK REVIEWS

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Cases on Criminal Procedure. By William E. Mikell, Professor of Law in the University of Pennsylvania. American Casebook Series, James Brown Scott, Editor. St. Paul. West Publishing Company, 1910. pp. xviii, 427.

Cases on the Law of Bills and Notes. By Howard L. Smith and William Underhill Moore, Professors of Law in the University of Wisconsin. Same Series. St. Paul. West Publishing Company, 1910. pp. xv, 756.

To all who are interested in the teaching or study of the law, the two present volumes of the "American Casebook Series," the appearance of the first two volumes of which was commented upon in these columns some three months ago, should be welcome. These two works are of the same high quality as their predecessors, and will undoubtedly have wide vogue among the law schools of the country.

The work on Criminal Procedure sets forth English and American cases upon sixteen sub-topics of this branch of adjective law, from the preliminary questions of jurisdiction, venue and arrest, to the treatment of new trial, arrest of judgment, the several forms of appeal, and judgment, sentence and execution. The chapters devoted to indictment and trial are very comprehensive, and a short chapter on punishment closes the body of the text. As an appendix appear the various forms of indictment.

The casebook on Bills and Notes follows the general plan adopted in modern treatises upon this subject. After an introduction upon negotiability, the four parts of the work are Form and Inception, Negotiation, Liability of Parties, and Discharges. There is a vast body of cases upon this phase of commercial law, and the selections in this instance seem to be leading cases, to the point, and well scattered among the various American jurisdictions, in addition to the English cases. The Negotiable Instruments Act without annotations appears as an appendix.

As Mr. Scott has said in his preface to the series, "If it be granted that all, or nearly all, the studies required for admission to the bar should be studied in course by every student * * * *

it follows necessarily that the preparation and publication of collections of cases exactly adopted to the purpose would be a genuine and by no means unimportant contribution to the cause of legal education." We have had four convincing pledges that this contribution will be made and this promise carried out.

C. R. W.

Commercial Power of Congress. By David Walter Brown, Ph.D., of the New York Bar. G. P. Putnam's Sons, New York and London, 1910. pp. 284.

In view of the profound problems provoked by the complexity of modern commercial relations and the vast interest aroused in the public mind through the discussion of the various methods proposed and employed by the Federal Government in the solution of these questions, the investigation undertaken in this able and scholarly essay is most opportune.

It is the author's opinion, as stated in the introduction, that "the ardent opposition to the Railroad Rate bill, the Employers' Liability bill, and other measures proposed during President Roosevelt's administration, for the purpose of controlling the great railroad and other corporations through the power of Congress to regulate commerce, led to a thorough inquiry into the basis of the power; but as is usual when radically different positions are taken by opposite parties to a debate, both sides advanced arguments which sober reason would find it difficult to approve." "On the one hand, supporters of the administration claimed powers for Congress exceeding what were justified by the origin of the Constitution or the decisions of the Supreme Court, on the other hand, opponents of the President, rested much of their case upon a statement of facts, so partial as to be substantially incorrect." And so the author has attempted the task of finding the correct middle course between those partisan standpoints by an independent inquiry into the events and circumstances surrounding the Constitution at its origin.

In developing this inquiry, Dr. Brown canvasses all the pertinent historical facts from the time of the New Jersey Representations, of 1778, to the Embargo Laws of Jefferson's Second Administration in 1809. The statement of facts and the method of treatment pursued is in harmony with sound historical and constitutional authorities and the conclusions reached by the author

are sane and reasonably definite in view of the extreme terseness of the Constitutional provision relative to the power of Congress to regulate commerce and the fact that the question is still far from being wholly adjudicated in the courts.

The author claims that his essay is a return to the older and correct view of Curtis and Bancroft, that the Constitution of the United States is not a trade convention; it is the framework of a national government with strong coercive powers, formulated by the political, social, and financial leaders of the time, under the influence of great fear, for the purpose of protecting themselves and their property." "This determination of the dominant party in the convention drew into its design all incidental powers bestowed upon the new government; and a correct view of the scope which the members intended to give to the several powers, including that over commerce, cannot be obtained without recognition of this dominant purpose."

The book contains two appendices and a fairly full index.

W. R. M.

A Law Dictionary. By Henry Campbell Black. Second edition. St. Paul, Minn. West Publishing Co., 1910. pp. vi, 1314.

The task of the compiler of a law dictionary becomes more difficult in geometrical progression year by year, as the scope, aim and study of the law are broadened to include the rapidly-increasing bulk of human knowledge; for the law reaches out and bodily assimilates many of the sciences akin to it, such as psychiatry, criminology, and the broad field of medical jurisprudence, and the terms and phrases of these sciences must be included in any modern law dictionary. But the work of our lexicographer grows almost correspondingly less difficult as he pays due heed to, and makes good use of, the work of his ancient and modern forerunners. A study of the latest edition of the well-known legal dictionary of Mr. Black leads one to the conclusion that the author realizes, and has fully met, both of these demands upon him.

This volume, undoubtedly the standard among single-volume law dictionaries, embodies many features which make it indispensable to the student or practitioner. "For the convenience of those who desire to study the law in its historical development," as the author states, "as well as in its relations to political and social philosophy, * * * * and in view of the modern interest in

comparative jurisprudence and similar studies," it has been necessary to select the terms defined from the jurisprudence of all nations, embracing such out-of-the-way juristic systems as the Lombardic, Mexican, and Hindu, and the more recent Australian and Canadian. The terminology of all branches of medical jurisprudence has been searched and arranged and is here set forth in convenient shape for the searcher after understanding of this most variable adjunct of the law. In addition to the comprehensive treatment of words and synonyms, the book includes a complete collection of legal maxims, Latin, French and English, occurring throughout the book in their alphabetical places. The work, however, is not entirely infallible, as is shown by the omission of the recently-discussed word "maresme" (2 Swanston, 170) of old English and French law, which somehow manages to be left out of the lexicographies.

Painstaking revision and excellent typography distinguish the second edition. It is an ideal law dictionary.

C. R. W.

The Visigothic Code. Translated and edited by S. P. Scott. The Boston Book Company, Boston, 1910. pp. lxxiv, 419.

Rarely, indeed, does a practicing lawyer, in his search for precedents, go back in the history of the law, even to the fourteenth or fifteenth century. Never would the average attorney think of tracing an ordinary matter back to, say, the sixth or seventh century. For practical use, therefore, to the average man, Mr. Scott's translation of the *Visigothic Code,* in spite of the fact that the *Code* shows in many of its titles a remarkable completeness and similarity to modern ideas of justice, and in spite of the fact that "it forms, to-day, the basis of the jurisprudence of a large portion of the civilized nations of the earth," is of little value. The *Visigothic Code* is, however, as is stated in the dedication of the work, "one of the most venerable monuments of jurisprudence," and, if the present translation serves to bring the *Code* to the more popular attention of the profession or is at all instrumental in preserving it, the work will be well worth while.

There is a most interesting preface to the book, which covers about forty pages. This preface tells of the rise to power of the Goths, of their embracing Christianity in 587, A. D., and of

their decline, showing how all these changes are reflected in the laws of the period. As is pointed out, the chief influence manifested throughout the *Code* is that of religion and the clergy. Gross superstition is frequently apparent and the brutal persecutions of the Jews and all heretics provided for by the laws of the Goths could only have been dictated by a clergy that was supreme.

It was in the latter part of the fifth century that Euric of Arles first gathered the old customs of the Goths, the remains of the Roman jurisprudence, the acts of ecclesiastical councils and the edicts of kings into one compact code. This work was improved upon under the patronage of Alaric II in the first part of the sixth century, and these two codes paved the way for the great *Forum Judicum* which was compiled between 649 and 652, and which is now known as the *Visigothic Code.* The present translation of the *Code* is from the original Latin with some reference to the Castilian translation, which was made in the thirteenth century under the orders of Ferdinand III of Castile. The fact that it purports to be a literal translation accounts for the roughness of diction and the long, involved sentences. The same fact, however, assures the student that he is getting more nearly the original meaning than he would if modern legal terms were used.

E. A. I.