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LAW LATIN AND ROMAN LAW.

No one who has not made something of a study of Roman law, can be aware how little of our Law Latin is inherited from Rome. It was both the good and the bad fortune of the Latin tongue to become the common language of the learned of all nations, after the decline of the Roman Empire, and we have thus derived from it not only many terms unknown to the Romans, but many terms to which they gave one meaning and we another.

To give an instance, the most misleading of these, perhaps, is the phrase *sui juris*, as this is used to denote a free person of full age and capacity. To the Roman it meant simply one who was not subject to the *patria potestas*. He might be a babe in arms, or a boy under the control of a tutor, and still be *sui juris*. He might be a free citizen of mature years, the father of a family, filling high official position, and yet be not *sui juris*. A bastard foundling was *sui juris*; the prætor upon the bench might not be.

It is to be regretted that there are so few among our American law-students who are willing to give any real attention to Roman Law. It was taught for two or three years, beginning in 1848, at the Harvard Law School, by Mr. Cushing, and then dropped from the course, and from the studies of the University, I believe, until within the last ten or fifteen years. It was taught at Yale, by Mr. Larned, by taking the Institutes as the basis of an optional course in Latin, between 1842 and 1847, and then abandoned for twenty years, when the same course was revived by Professor Hadley. Since 1869 elementary instruction in this subject has been given by lectures in the Yale Law School, but it is only since 1876 that any attempt has been made there to teach it with any degree of thoroughness, and that only in the fourth year of the course, to the very few who are studying for the doctor's degree. In the Law School of the University of Louisiana it

has, of course, always been studied with care; the chair of Roman Law having been occupied by such men as Thomas J. Semmes and Carleton Hunt. Chancellor Hammond, of the Iowa State University Law School, introduced it there some ten years ago, and by his edition of Justinian has aided materially in popularizing it in America. In the Columbia Law School instruction in Roman Law was not given till after the recent organization of a graduate department, although it has been for many years an object of interest to Professor Dwight, who, in his introduction to the American edition of *Maine on Ancient Law*, more than twenty years ago, specially called the attention of all law-students to its great importance to one who would understand the growth and development of our own jurisprudence.

It is not creditable to the profession to which we belong, or hope to attach ourselves, that both in preparing for it and in practising it, so little regard is paid to anything that is not written in plain English, and of late years. The case-lawyer may well shun Roman Law; but the man who expects to convince courts by reasoning, and to argue from principles, must always find its early study an essential help. SIMON E. BALDWIN.

Yale Law School, May 14, 1885.

A NOTE ON CONTRACTS BETWEEN HUSBAND AND WIFE.

I was asked a few days ago whether a conveyance of real estate from a husband to his wife, without the usual intermediation of a third person as trustee, would be valid under the present law of the State. Not feeling certain that my answer "yes" was wholly true, and holding that just suspicion of any unqualified statement which the study of the law is sure to engender, I read a few leading cases and glanced over the statutes, and now venture to submit to the JURIST the meagre notes collected in this cursory way.

It was well settled long ago that at common