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Some Lessons from Our Legal History

Matthew F. Schimenz Jr.

at frequent intervals. This method, together with the typographical makeup, prevents the work from having the outward appearance of an orthodox law-book.

The most interesting parts are the chapter dealing with the "rate base," or the various elements of value upon which proper income may be predicated, and the chapter entitled *"Smith* v. *Ames* is Fraught with Grief." The last-named chapter deals with the famous case, in 1898, in which the Supreme Court of the United States laid down the "fair value" rule. Unfortunately, no one, least of all the judiciary, can or tries to give a definition of "fair value" to fit all cases. The rule is intended to be a fluctuating norm, accommodating itself to each new case and not attempting to force the latter into arbitrary and previously established limits. The author shows how this rule has led to results as absurd and chaotic as the thoughts of Thersites. He advocates instead the "prudent investment" rule of Justice Brandeis (dissenting) in the Missouri ex rel. Southwestern Bell Telephone Co. case, 262 U.S. 276, etc., although he admits that the "fair value" rule is too firmly established to be dislodged.

Having praised the book, and it contains much that is praiseworthy, it were idle to pretend that it has no faults. One of these is the fact the simple and direct literary style of the author sometimes prevents sufficient thoroughness. Occasional dullness is not too much to pay for detailed exactness.

Another *quasi*-fault is the repetition of the same quotations to illustrate different rules and the repetition of the same rule in different disguises. Probably this was unavoidable. At the same time, it does create an impression that material is being squeezed out with filmlike thinness. This impression is not destroyed by the long appendices which, with an excellent index, carry the book to a total of 381 pages, plus 21 preliminary pages. Considering the size of the book, its price appears excessive.

DANIEL J. MCKENNA

Some Lessons from Our Legal History. By William Searle Holdsworth, D.C.L., K.C., Hon. L.L.D. Published by the Macmillan Company, 1928.

The purpose of the author in writing this book is to have the student and the practitioner of law read legal history as a foundation and background of his legal education.

The treatise touches only superficially an exceedingly interesting subject, and gives one an insight into what legal history holds in store; for example, the origin of the Roman and common law, the formation and development of the jury system, and the origin and subsequent development of the old common law writs.

Legal history enlightens us as to how the law developed in its several phases, and also as to the introduction of the common law into the United States. During the period following the Revolution the common law had difficulty in gaining a foothold; there was much opposition to it and much favoritism for the Napoleonic code which was at that time in its infancy. Legal history explains and fixes these facts in one's mind.

Legal history gives the background of the earlier method of deciding cases, as contrasted with the present tendency of following the decision in previously decided cases.

May the writer suggest that *Some Lessons from Our Legal History* would be an excellent basis for a course of study to be substituted, in the curriculum of the pre-legal student for some of the present courses?

MATTHEW F. SCHIMENZ, JR.