

BOOK REVIEWS.

THE ACT TO REGULATE COMMERCE, CONSTRUED BY THE SUPREME COURT. By Hubert Bruce Fuller. Pp. x and 585. Washington: John Byrne & Co., 1915.

There is abundant room for just such a book upon the Interstate Commerce Act as that which Mr. Fuller has written. It serves admirably as a book for first reference. In ignoring the many decisions which have been rendered by the Commission itself and by the lower courts and concentrating his attention upon the decisions of the court of last resort the author has been able to bring out clearly the best settled interpretations of that important statute, and he has had at his disposal a sufficient mass of material to justify him in so restricting the scope of his work.

In a preliminary essay there is a brief sketch of the history of the commerce clause, showing its origin and the bearing which it had upon rate regulation. The Interstate Commerce Act is then printed section by section, including even the amendment of 1915. Each portion of it is discussed at length, and there are extensive notes which not only state the decisions of the United States Supreme Court but which quote from the opinions of that court much more fully than would be possible if the book covered all of the cases which have arisen under the Act. The rules of practice before the Commission are set forth at the end of the volume.

The book is so printed as to be unnecessarily bulky; it shows no marked amount of original thought; and it contains no reference whatever to the decisions of the Commission or of the lower courts, so that it will not by itself in most cases be a sufficient source for authorities upon the statute with which it deals. The work which the author has undertaken, however, has on the whole been well done, and if the book is used simply for first reference it will prove decidedly valuable to all those who have occasion to consider the proper interpretation of the statute.

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THE SWISS CIVIL CODE. Translated by Robert D. Shick, of the Philadelphia Bar. Pp. lxxii and 262. Boston: The Boston Book Co., 1915.

This volume is the last official publication of the Comparative Law Bureau of the American Bar Association (Foreign Civil Code Series). It attempts to fill a regrettable gap in the English literature of foreign law; for, surprising as it may seem, the Swiss Civil Code has, all told, received in the almost eight years of its existence in its present form, but the briefest notice in a few legal bulletins and periodicals in this country and in England. Since this unification of Swiss law, because of the similarity of cantonal and American state autonomy, presents for us a profitable study in law making, the indifference of American legal science suggests reasons for reflection.

Our volume contains: (a) a foreword by W. W. Smithers, Esq., of the Philadelphia Bar, Secretary of the Comparative Law Bureau; (b) an historical introduction; (c) the text of the Code, and (d) an index.

The translation of the Swiss Civil Code was proposed by the late Charles Wetherill, Esq., of the Philadelphia Bar, and the work was entrusted in 1908 to the translator of our volume, whose American college degrees had been supplemented by legal studies pursued in Berlin. Annotations, mostly comparative, referring to German law, were undertaken by Charles Wetherill. The co-operation of Dr. Eugen Huber, drafter of the Code, and

Dr. Alfred Siegwart, Professor at the University of Fribourg, was secured in the reading of the proof, and the whole work was revised as to terminology by Gordon E. Sherman, Esq., Professor of Comparative and International Law at Yale University. It would seem therefore that no effort had been spared to make the translation clear and accurate.

It is not possible within the space of this review to do more than sketch in the briefest manner the historical facts leading up to the Swiss Code. They are to be found conveniently in the "Historical Introduction", which for the most part is a translation from the "Introduction" by Henri Chaudé, "*Le Nouveau Code Civil Suisse Dans L'oeuvre de la Codification Moderne*" (Paris, Rousseau, 1909), while for the earlier history of Swiss law the student may turn to Dr. Eugen Huber's own essay in "Continental Legal History Series," vol. I, "General Survey," part VI, pp. 484, *et seq.*

In 1798 the Old Swiss Confederation, which had endured from the fourteenth century, collapsed and the short lived Helvetian Republic came into existence. From 1803 to 1815 Switzerland existed as a Napoleonic Confederation; independence was then restored under a new constitution. Important constitutional changes took place in 1848 and in 1874, when the basis was laid for national legal uniformity. Wide differences of race, religion, customs, language (German, French, Italian and Romance), topography and industries, intensified by the profoundly democratic and independent spirit of the people, had led each of the twenty-two cantons to cultivate jealously its own law until the divergencies were perhaps as marked as in the United States, with the inconvenience of being concentrated among a population of less than four millions and over a territory but one-third the area of the state of New York. The constitutional revision of 1874 granted federal legislative power over marriage and obligations, the latter resulting in the well known Federal Code of Obligations of June 14, 1881, which covers the field of contracts for both trader and non-trader, thus discarding the common distinction between a commercial and a civil law of contracts. Various other uniform laws were passed. The necessity for a broader unification of private law was recognized in a constitutional amendment of 1898 which extended federal legislative power over the whole field of civil and criminal law. The work of drafting a code was entrusted to Dr. Eugen Huber (b. 1849) who has been Professor at Halle, Bern and Basel and whose "*System und Geschichte des Schweizerischen Privatrechts*" (1886-1893) marked him as the greatest Swiss legal historian. In 1900 he submitted a preliminary draft which was studied by two especially appointed commissions. In 1904 the Federal Council (the executive power) reported the draft with a "message" to the National Assembly (legislative body) and on December 10, 1907, both houses, the National Council and the Council of States, unanimously adopted the Code, which went into operation January 1, 1912.

The Code in its present form consists of an introductory part; four parts: I, Law of Persons; II, Family Law; III, Law of Inheritance; IV, Law of Things; and a final part devoted to measures necessary to insure a harmonious change from the old to the new law. It is proposed to add the revised Federal Code of Obligations as a fifth part.

The new code, which of course repeals the vexatious and injurious diversity of old legislation, was published in three languages each of them official: German, French and Italian. Mr. Shick's translation is based upon the German. We regret to have to say that in the reviewer's estimation the English is frequently at least cumbersome and the translation inaccurate. Difficult, surely, is the task of the translator. But should we excuse diction of this sort?: "The reporter in the French language adjures his fellow-citizens to make certain concessions upon this point, and his request was all the more justified because it was the influence of the Roman law, where the father is obliged to give a dot to his daughters, and which was reinforced in Germany by the custom of furnishing at least a trousseau, and thereby made of it a sort of rule of the common law" (p. xxi); again, "It is

necessary to recall only those revisions which are directed to the purpose of knitting faster the bonds of the immediate family, and to place the wife in the position of a companion of like birth" (pp. xxvi-xxvii). As examples of inaccurate translations we mention; art. 1, "approved precept and tradition" for "*X Lehre und Ueberlieferung*," "*doctrine et la jurisprudence*," "*dottrina ed alla giurisprudenza*"; art. 12, "commercial capacity" for "*handlungsfähigkeit*," "*exercice des droits civils*," "*esercizio dei diritti civili*"; art. 22, "domicile" for "*heimat*," "*origine*," "*attinenza*"; art. 23, "residence" for "*wohnsitz*," "*domicile*," "*domicilio*." The following is not clear phraseology: Art. 54, "Juristic persons possess commercial capacity, as soon as the organisms required by law and its articles are provided."

The index, with less than one hundred main topics, seems inadequate.

L. B. R.

THE STRUCTURE OF AN EFFECTIVE PUBLIC SPEECH. By Harry B. Bradbury. Pp. 85. Greenfield, Mass.: T. Morey & Son, 1915.

Perhaps one of the most noticeable failings of the modern individual is his inability to speak in public. It is not difficult to recall many instances of speeches full of awkward pauses and examples of anacoluthon. The speakers of to-day seem to have a sufficiency of ideas, but they are unable properly to express themselves. True, it may be said that orators are born, not made, but after all the idea is the all important factor which must be inborn; the modes of expression may be learned by anyone. Such is the purpose of the author in this little book: to show one who has ideas how he may best express those ideas and impress them upon an audience. He does not advocate orthodoxy as an end in itself but merely as a means to efficiency.

To effect this purpose, Mr. Bradbury turns to the famous orations which have been delivered throughout the ages and shows how they may all be divided into six classical parts: the introduction, the statement, the proposition, the argument, the refutation, and the conclusion. He then takes up each one of these divisions in turn, explains of what it should consist and why it should exist at all, and illustrates from well known examples. In connection with each, he gives good practical advice in such an informal way that it is almost sure not to be forgotten.

No one who has read the book can feel that it is not very helpful; it is sure to give the reader "common sense" about handling the subject on which he is to speak. For those who feel that they do not need instruction on the subject, the book will furnish a few hours' delightful reading.

E. W. M.

GERMAN LEGISLATION FOR THE OCCUPIED TERRITORIES OF BELGIUM. Second Series. Edited by Charles Henry Huberich and Alexander Nicol-Speyer. Pp. 165. The Hague: Martinus Nijhoff, 1915.

This second series concerning the German legislation for Belgium takes up the official proclamations, *etc.*, published in the *Gesetz-und Verordnungsblatt*, where the first series left off, December 26, 1914, and brings them down *verbatim* to the issue of March 29, 1915. The most important legislation contained in this second volume is of a fiscal nature, (1) regulating the issue of notes by the *Société Générale du Belgique* (Jan. 9, 1915) and (2) imposing a war contribution of forty million *francs* jointly upon the Provinces of Belgium (Dec. 10, 1914), and a supplemental personal tax upon Belgians remaining absent abroad (Jan. 26, 1915, and others). The legislation strongly reflects German effort to rehabilitate the country.

The volumes would be handier did they possess indices. (For notice of the first series, see 63 UNIV. OF PENNA. L. REV. 699.)

L. B. R.