

25-K-94

Review for actually in *Procurator's Law* *Muller's*

ACK

Customary laws dictated preservation of lineage property, and unquestionably most families sought the same end. At the same time, however, most of the coutumiers called for equality among heirs, ~~as a rule which,~~ from the point of view of families with numerous children, ~~this~~ could be disastrous to the unity of the family estate. How the legal principles were accommodated to ^{family exigencies} ~~xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx~~ constitutes perhaps ~~xxx~~ ^a most complex subject in the jurisprudence of the ancient régime.

Were we to possess the complete records of how one family managed to perpetuate a sizeable estate over several generations, when sometimes there were many children or sometimes no children but many nieces and nephews who were equal ~~xxxx~~ as heirs, we ~~would~~ ^{would} have ~~a~~ de facto knowledge of how principles and practice were wedded; but we would still lack precise de jure understanding, for ~~xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx~~ ^{such family deeds and testaments} themselves do not tell us how ~~for the law norms of the law were obeyed,~~ and various devices of the law were manipulated to what ends. Such ~~xxxxxxx~~ an understanding of the mentality of the family succession might be reconstructed, if one knew the intricacies of the law and had the total record of what was done. But just consider that ~~the~~ la propres might be held in different ~~xxxxxxxx~~ cities and counties, where different laws of succession applied; that some propres might be noble and some routurier, for which different rules applied; that the ~~xxxxxxx~~ legal dispositions of the ~~xxx~~ judges who would rule on the case if it were to be contested were known to the ~~xxxx~~ family's lawyer but not to us--consider all these factors and it is evident that having ~~the~~ all the legal instruments of the actual succession would still not give us any certain knowledge of the mentality of the ~~individualxxxxxx~~ family members who negotiated the succession.

What we do have in great abundance, besides the coutumiers themselves well glossed, are ~~xxx~~ hosts of court decisions and a solid library of legal writing on the practice of succession. These tell us what was possible, and we can reconstruct a breviary of basic devices that evolved ~~over time~~ ~~to make the~~ to allow flexibility in arranging successions. The difficulty for the amateur of the law, ~~the~~ ^{old} ~~the~~ ^{such as} the social historian of today, is to judge what is ordinary and what is special. Legal textbooks tend to concentrate upon the myriad of exceptional ^{cases} ~~usages~~, ~~xxxxxxxxxxxxxxxxxxxxxxxx~~ the conundrums which ~~challenge~~ have challenged judges and are contested between ~~juristxxxxxx~~ juristic scholars. ~~The~~ Common practice, which the social historian would like to know, is not given him expressly. Sound statistical samplings of actual successions would provide the basis for reconstructing the usual occurrences within the wide variety of the possible ones, so that a reasonable understanding of the mentality of families in respect to lineage obligations and future generations remains elusive. For now, we must try to reconstruct the social actuality from juristic writings.

see also pp 225, 246 on need for 'propre' in