

# **FALLACIES OF THE LAW**

Published @ 2017 Trieste Publishing Pty Ltd

ISBN 9780649581061

Fallacies of the Law by Henry S. Wilcox

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**HENRY S. WILCOX**

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OF THE LAW**



# FALLACIES OF THE LAW

BY  
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FOIBLES OF THE BENCH, FOIBLES OF THE BAR,  
FRAILTIES OF THE JURY, A STRANGE FLAW,  
THE TRIALS OF A STUMP SPEAKER,  
ETC.

Published by  
LEGAL LITERATURE COMPANY,  
CHICAGO, ILL.

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Entered at Stationers Hall,  
LONDON, ENG.

## PREFACE.

THIS VOLUME is the last of a series projected more than a year ago relating to court matters and designed to furnish information to those who may be interested concerning the deficiencies of bench, bar, jury and the law. The subject of this volume is so large that it has been necessary to cram many facts into a small compass, and this has prevented the use of much ornamentation. The author has striven to strip the naked truth down to the very bone, relying upon the importance of the subject to win the attention of the reader.

Some attention has been called to the fundamental errors in the organic laws of our national government and the methods employed in providing officials, but the most space has been devoted to considering that great body of doctrine known as the common law, which is in force in every state in the Union except Louisiana. This system is mainly relied upon to determine our civil rights, duties and responsibilities, and to provide redress for wrongs. It was not devised by any law-giver. It is not like a garden which

some expert gardener has planted and trimmed, but is like a thicket which has been sown by the wind and trimmed by the whirlwind, where every kind of seed that could find a lodgment has grown the best it could, and trees of beauty and utility contend with briars, weeds and underbrush. Or perhaps it may be likened unto a garment made by a bungler in remote antiquity and on which every generation since has placed some patches, until it resembles a crazy-quilt in its variety of color and texture and is without any of the harmony that ordinarily pertains to that article.

The laws defining our rights originated in compromises made between tyrants who ruled kingdoms or empires and tyrants who ruled dukedoms or manors. Many laws imposing duties arose out of the concessions of landlords and masters to tenants and serfs. The laws which provide remedies have emanated from the edicts of kings and military chieftains who, during brief periods between wars and dissipations, have devoted some time to devising methods for redressing the greater atrocities.

As the generations of mankind have come and gone a few new features have been invented, and many patches in the shape of amendments have been placed by legislators, or produced by the



ingenuity of judges; so we now have a sort of hodge-podge thrown together by accidents of antiquity and worn into a kind of homogeneous mass by the grinding friction of judicial conflicts. The enormous bulk of this mass prevents any criticism in minute detail. The general reader would not have the patience to read such a production. The author has merely undertaken to pick out a few of the absurdities whose peaks appear the loftiest and to direct special attention to them as typical parts of the great chain.

One whose attention has not been called particularly to the many defects in our laws can not realize how very bad they are. It would be difficult to invent a more cumbersome, complicated and bulky machine than the system of jurisprudence of this country. Indeed, it would be quite difficult for a writer in any language, however great his command of words might be, to overstate some of the faults that inhere in the system.

It is hoped that the critics, who have dealt kindly with the other volumes, may still have patience to review this in a charitable spirit. The bearer of bad tidings is likely to be unwelcome, and especially so if they pertain to our dearest interests. The potion intended to purge us of

our faults may be so bitter that no amount of sugar coating can sweeten it, and yet to be cured we must take it.

In the four volumes of this series the author has offered his countrymen the gleanings of his professional life for the purpose of assisting those who wish to improve the present methods. If their faults offend the reader's sensibilities, the author begs indulgence on the ground of the purpose that inspired them. Like the widow's mite, may they be valued as expressions of a desire to aid a just cause to the full extent of the giver's capacity.

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