

1936

Justice Oliver Wendell Holmes, His Book Notices and Uncollected Letters and Papers, edited and annotated by Harry C. Shriver

Marquette University

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in the law school. It should and in many cases is taught in college while the student is preparing himself for the study of law. Most law schools, however, do offer in their freshman year a course on Introduction to Law wherein the student is introduced to the historical development of the common law and is made acquainted with the legal terminology with which he comes in contact while reading cases assigned in the classroom.

Mr. Radin's work on "Anglo-American Legal History" is an attempt to present in outline the historical background of the common law, especially such phases of it, as procedure, both civil and criminal, remainders and reversions, tenures, etc. It is necessarily very general in its treatment of the subject because the author attempted to cover a vast amount of material within the limits of one volume of six hundred pages. Its orderly arrangement and logical sequence, however, set out in regular hornbook style, make it a very useful and important book both to the student and teacher. The author readily admits that it is rather a stimulus to further study of the historical development of the common law than a comprehensive treatment of the subject. In speaking of the purpose of his book in his preface he states as follows: "The purpose of this handbook is the modest and practical one of giving students in American law schools a certain amount of information about how their law came to have its present form, so that this law may seem something more than the archaeological museum it has often appeared to be, and something less than a set of general rules abstracted from time and space and circumstance."

The first part of the book presents a brief sketch of English history beginning with the Norman conquest. It is an attempt to outline briefly the conditions which prevailed when our English common law had its origin. The second part of the book offers a short statement of the historical origin of our political institutions as well as a brief reference to various special phases of the law commonly taught in a course on Introduction to Law. A chronological table of historical data from the Norman conquest to the present time together with a bibliography of English and American legal history constitute a valuable addition to the book. On the whole Mr. Radin's work because of its compactness and orderly arrangement of material is a valuable contribution to the very few treatises on the subject of Introduction to Law.

F. X. SWIETLIK.

BOOK NOTES

Justice Oliver Wendell Holmes, His Book Notices and Uncollected Letters and Papers, edited and annotated by Harry C. Shriver. Central Book Company, New York, 1936, pp. xiii-280.

This is an interesting little book. Many of the book notices are short and some of them are mechanical. Many of them are typical of the Justice's judicial opinions, with well turned phrases packed with meaning which to be appreciated must be read over and over again. The editor has done an excellent job of annotating. He has given full details about references to persons and events. He has compiled a bibliography of articles and books relating to Mr. Justice Holmes. He has used the Justice's opinions to illustrate the trend of his philosophy and to show what Holmes did on the bench to make effective his ideas about political devices. Time after time the Justice put forth in book notices and opinions his suggestion that there can be no division of powers or func-

tions into legislative and judicial, that courts as well as legislatures must legislate.

The most interesting part of the book are the letters to Wu, the young Chinese law student with whom Mr. Justice Holmes began to correspond during the last years of his life. The impression one gets from these letters is that Holmes was a well informed man of the world, a pessimist and a pragmatist. The scope of his reading is astounding, and one begins to understand from all that Holmes discloses why he was not a great commercial lawyer.

The Justice's criticisms of Professor Langdell's casebooks are interesting. He approved of them but he did not believe that they could take the place entirely of a systematic presentation of principles through texts. His comments about Codes and the Roman Law show that Mr. Justice Holmes, in spite of his wide reading, was the typical Anglo-American common law lawyer. And from the time he first began to write book notices down through the days when he was writing to Wu he seems to have felt that Thomas Malthus had shown the world the only true solution for its ills.

Handbook on the Law of Private Corporations, by Robert S. Stevens. West Publishing Company, Saint Paul, 1936, pp. xvi-946.

Professor Stevens has written an excellent one volume text on the law of private corporations. It is not a treatise nor is it a digest. It is strictly a student's book. The plan of the book is comprehensive. It has chapters on "Rights and Remedies of Creditors," "Receivers and Reorganization," and "Foreign Corporations." Obviously these can be merely introductory in a text of this size and type. These chapters are not critical and the author apparently did not intend them to be critical. Commercial law is being given a bigger place in modern law school curricula and creditors' rights and corporate reorganization cannot be covered in the ordinary course in corporations.

The author's first chapter on "Corporate Personality" is excellent. He has struck down at the start the misleading fiction that a corporation is a legal entity separate from its members. In his chapter on "Ultra Vires," however, he perpetuates the old "saw" about the federal rule and the state rule and he, too, like many other writers, takes literally the dicta of the Kansas court in *Harris v. Independence Gas Co.*¹ He might have done more in his chapter on "Promoters" to tie up the problems in the promoter cases with the probability of administrative prophylaxis through blue-sky laws and security acts. The chapter on "Dividends" is inadequate except where he treats of the payments of dividends on preferred shares. Any statement of rights and duties of stockholders and directors about dividends, capital, and surplus is bound to be inadequate without some inquiry into bookkeeping practices, and it is probably too much to expect that there be included in this elementary text a discussion of that sort.

One may not like the classification of topics. It is strictly orthodox, although the author's criticisms are not always just that. The realist may feel that the criticisms and discussions should be built upon the plan, for example, of Professor Frey's casebook. He might like, too, something of an exposition about a typical corporation code. But Professor Stevens has set out to prepare a text which could be used by the greatest number of students. He has had to stick to his orthodox scheme and within its limits and the limits of an elementary book he has done a good job.

¹ 76 Kan. 750, 92 Pac. 1123, 13 L.R.A. (N.S.) 1171 (1907).