Handbook of Anglo-American Legal History, by Max Radin

F. X. Swietlik

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and without it a mere symbolical delivery is customarily declared to be insuffi-
cient." (p. 141). "The bailee for hire is not, however, an insurer of the goods
and will not be held liable for their loss or damage unless he is guilty of some
negligent act or omission which is the proximate cause of their loss." (p. 288).
"In the possessory lien, therefore, the security of the creditor is in the possession
of the debtor's goods; in the mortgage transaction the security is in the title
of the debtor's property." (p. 455). "Although the pledgee is not technically a
trustee, since the legal title to the pledge resides in the pledgor, and since
the pledgee has interests of his own in the subject matter which he is entitled
to protect, the general analogy holds and affects the rights and obligations of
the parties in many respects." (p. 593). Perhaps these statements represent
extremes. They are not descriptive of the judicial process. They represent the
sum of argumentative contentions in numerous cases. The author does some-
times state such propositions to destroy them as he does when he discusses gifts
causa mortis, the vesting or devesting thereof (p. 138) and then criticizes the
accepted concepts (p. 144). In the chapter on fixtures he asks questions which
he proposes to answer. "Could a creditor levy on the softener (machine) and
have it sold as though it were a chattel; is the softener taxable as personal
property; * * * could a mechanic's lien be claimed against the real estate for
the costs of its installation?" What has the legislature prescribed, what have
the courts done, what could they do about these propositions? These are ques-
tions which are significant. They are the kind of questions which are "practical,"
which lawyers must answer every day.

An unrealistic, professional technic, understandable if one knows something
of the history of the common law, has caused lawyers and judges to be con-
cerned about professional mysteries. When does a fixture become a part of
the real estate? Does a gift causa mortis vest before the donor's death? When does
title pass from one person to another? Must lawyers, judges and law professors
continue forever to cover their contentions, their choices of policy, with pro-
fessional fictions? Perhaps they continue to do it because it permits them to
feel secure when they assert that ours is a government of laws and not a govern-
ment of men, but they do thereby stifle their own progress toward intellectual
maturity.2

For generations lawyers have been fighting real battles with wornout weap-
ons. Our reference books, our digests, our texts, even our codes have been
built upon professional fictions. We must cope with them, perhaps we must
compromise with them, but let us recognize them for what they are, argument-
ative devices which in times past have served some more or less useful func-
tions. We should be thankful that our judges have written opinions, which, while
phrased in legal language, have given us some pretty good ideas of the con-
troversies involved.

_ Vernon X. Miller._

_Handbook of Anglo-American Legal History_, by Max Radin, West

A thorough course in both English and American history with special
emphasis on the origin and growth of the political institutions under which we
live is becoming more and more recognized as a necessary background to the
study of law. For obvious reasons this course cannot be offered to the student

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 import-
ant 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 archae-
ological 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 begin-
ning with the Norman conquest. It is an attempt to outline briefly the condi-
tions 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 compact-
ness and orderly arrangement of material is a valuable contribution to the very
few treatises on the subject of Introduction to Law.

F. X. SWIEHLIK.

BOOK NOTES

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

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 philos-
ophy 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-