REVIEWS AND NOTICES

A Text-Book of Jurisprudence. By GEORGE WHITECROSS PATON, Professor of Jurisprudence in the University of Melbourne. Oxford: The Clarendon Press. 1946. Pp. x, 528. ($6.25)

It is noteworthy that Professor Paton's work is the second of two outstanding works on Jurisprudence written by an Australian within a period of a few months, the first being Professor Julius Stone's "Province and Function of Law". As Professor Paton points out in his preface, many texts on Jurisprudence are written in a style that is very difficult for students to read. He has aimed at avoiding "the traditional and imposing quadrisyllables which give a superficial impression of learning" and he has succeeded in his object. Teachers of Jurisprudence, searching for a text for students that is not "so bafflingly obscure that it reposes on the shelves unread", will welcome this work. It is clearly and simply written, and the propositions are set forth in a lucid and straight-forward manner.

"Jurisprudence" does not indicate the subject matter of a book as precisely as do the titles "Contracts" or "Torts" or "Equity". For example one knows fairly well what ground will be covered before he opens a text book on contracts. But the term "jurisprudence" may cover a variety of things: a study of the philosophy of law, including the natural law, historical, sociological and realistic "schools"; an analysis of legal concepts and principles — the approach of Austin, Gray and Salmond; or a study of law in relation to other disciplines and to everyday life — the sociology of law.[1] Some writers emphasize one or other of these aspects and ignore or minimize the others. Professor Paton has dealt with them all, though not necessarily in the order set out above.

His text is divided into five books. Book I, entitled "Jurisprudence, Law and the State" describes the various schools of jurisprudence (imperative, historical, functional and sociological) and the evolution of law from the primitive community to the modern state. After formulating his definition of law, the author holds that neither a state nor a sanction is essential to a law, though he concedes that they usually do exist in relation to law. He concludes that law is a legal order accepted by the community, which the community considers necessary and is willing to enforce.

His view is that law should not be defined in relation to justice, though later, in discussing the end of law, he shows that law has always been closely related to justice and ethics. His summary of natural law states the conception, originating with the Greeks, that there are immutable eternal rules which must be distinguished from man-made or positive law. However, he deals but briefly with the theories of the scholastics, and does not even mention St. Thomas Aquinas, who premised a Divine Providence which governs mankind and who held that man's reason enables him to discover a portion of this divine law, the portion so discovered being natural law. In view of the tremendous influence of this concept from time to time, including the present, it might have been elaborated further.

In dealing with the extent to which English common law is influenced by the notion of a purpose or ideal in law, the author points out that although

[1] This division is used by Professor Jerome Hall in his "Readings on Jurisprudence". His work is divided into three parts of approximately equal length.

English courts (at least since Blackstone) rarely speak of natural law, yet the ethical element is present in the growth of equity and also in the rules restricting the power to contract or make a will on the ground that it is against public policy. The question as to what latitude the courts have in creating new heads of public policy is one aspect of the old problem of a judge's power, or lack of power, to "legislate". There is a Canadian case, *Re Millar*,[2] to which Professor Paton, perhaps understandably, makes no reference, but to which Canadian teachers in discussing the subject of public policy would wish to refer their students. In this case the Supreme Court unanimously upheld a residuary bequest to the woman in Toronto having the greatest number of children during the ten-year period following the testator's death. However, the majority opinion written by Duff C.J., quoting numerous English cases, lays it down that a contract or testamentary disposition will be set aside as against public policy only if it is opposed to the interests of the state or of the people as a whole and if the harm to the public is substantially incontestible and does not depend upon the ideosyncratic inferences of a few judicial minds; and that it is unlikely that a new head of public policy could be discovered at this date. On the other hand, Crockett J. denies vigourously that the power of judges to proclaim new heads of public policy is thus circumscribed.

In Professor Paton's chapter on public law he discusses the relation between courts and administrative bodies. He points out the difficulty of finding a thoeretical distinction between the judicial and administrative function. The need of distinguishing the two is particularly important in Canada because the British North America Act says that only the Governor General of Canada can appoint a Supreme or district court judge and, if provincial legislation assigns to an official or board tasks that are similar to those normally performed by a judge, the question arises whether the provincial act is valid. The author mentions the problem as it arises in Canada, but merely says that the test is whether the administrative or quasi-judicial body is asked to do something that was done by a Supreme court judge in 1867. No mention is made of *Toronto* v. *York Township*,[3] which contains a detailed discussion of the problem by the late Chief Justice Rowell.

Book II treats of the source of law — judicial decisions, legislation and legal writings. On the question of *stare decisis*, and the binding effect of precedents, the author suggests that a court of last resort should be given power to correct its own mistakes as long as this power is exercised with great care. In England where the House of Lords is bound absolutely by its own decisions, it does not appear that there are many cases in which the court of last resort has been obliged to follow a previous judgment against its will; and where the law as declared by the House of Lords is unsatisfactory, it is a simple matter for Parliament to amend the law.[4] The Supreme Court of the United States holds itself free to review its own decisions and has avowedly overruled its earlier judgments on many occasions,[5] especially on constitutional questions. The principal reason for this is the great difficulty

[2] [1938] S.C.R. 1.

[3] [1937] O.R. 177, affirmed by [1938] A.C. 415.

[4] For example, The Law Reform (Frustrated Contracts) Act, 1943, passed as a result of the *Fibrosa* case, [1943] A.C. 32.

[5] *E.g.*, *Smith* v. *Allwright*, 321 U.S. 649 (1943), in which Mr. Justice Roberts, dissenting, vigourously protested against "the present policy of the court freely to disregard and to overrule considered decisions and the rules of law announced in them".

in amending the United States constitution. Canada has an analogous problem because of the lack of prescribed machinery or settled convention for petitioning the Imperial Parliament to amend the B.N.A. Act. Suppose the Dominion were to amend the Industrial Disputes Investigation Act so as to restore it to its original form, which was held *ultra vires* in *Toronto Electric Commissioners* v. *Snyder*,[6] and were to attempt to apply the act to a nation-wide strike such as the current packing-plant strike. Then suppose that the validity of the act were attacked. The Privy Council is not absolutely bound by its own decisions[7] and, although it has frequently made fine distinctions in dealing with its earlier opinions, yet it has not expressly overruled any of them. Is there any possibility that the Privy Council would hold that the subject matter of this act is now within Dominion competence although it was not in 1925? If not, what is the way out of the impasse? The Supreme Court of Canada will normally follow its own decisions, but reserves the right to refuse to follow a previous judgment in exceptional circumstances.[8] This rule seems to have worked better than the one laid down by the English Court of Appeal in 1944.[9] The latter rule is that the court is absolutely bound by its own previous decisions with three exceptions. In the three years that the rule has been in force, the exceptions have been badly overworked with the result that the certainty which the rule was designed to achieve, and which is its only justification, has not been attained.

The chapter on Legislation points out three characteristics of statutory interpretation by the English courts:

(a) the interpretation of statutes critically, rather than sympathetically;

(b) the court's refusal to go behind the face of a statute; that is to say, a court will not examine the proceedings in Parliament leading up to the act, or take cognizance of the intent of members of Parliament as expressed in speeches (the United States Supreme Court has departed radically from this rule);[10]

(c) the binding mass of case law which soon accumulates around a statute.

The work of the Lord Chancellor's Law Revision Committee is mentioned in connection with the problem of law reform and the problem of a closer liaison between the courts, legislature and bodies created to propose reforms is raised. No mention is made however of the work of the Commissioners on Uniformity of Legislation in both the United States and Canada.

Referring to text books and other extra-judicial writings as a source of law, the author points out that the former rule that only the books of deceased authors might be cited has been modified and that law review articles are now frequently quoted by the courts, especially in the United States. There is no doubt that writers in legal periodicals are performing an increasingly important function in their critical examination and analysis of all branches of the law.

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[6] [1925] A.C. 396.
[7] *Ontario Temperance* case, [1946] 2 D.L.R. 1 (P.C.).
[8] *Stuart* v. *Bank of Montreal* (1909), 41 S.C.R. 516.
[9] *Young* v. *Bristol Aeroplane Co.*, [1944] 1 K.B. 718.
[10] It is proper to ask whether the English rule which was applied by the Supreme Court of Canada in *Gosselin* v. *R.* (1903), 33 S.C.R. 255 should be modified and, if so, to what extent.

Books III and IV comprise what seem to this reviewer to be the backbone of the text. The former, entitled "The Technique of the Law", deals with Hohfeld's subdivision of rights into claim, liberty (or privilege), power and immunity, and their correlatives, duty, no-claim, liability and disability. Although this analysis has been criticized, nevertheless it has value, as is shown by its use in the American Restatement of the Law. The latter part of Book III analyzes titles, acts and events.

Book IV is an analysis of Legal Concepts. In connection with the subject of legal personality, note might perhaps have been made of the case of *Leveille* v. *Montreal Tramways* in which a child was held entitled to sue for pre-natal injuries.[11] The various theories of the nature of corporate personality are examined; also the status of associations, such as trade unions. This is of course a vital topic today. The discussion of the theory of contract emphasizes the significance in recent years of legislative interference with freedom of contract.

In discussing the basis of liability in tort, the author observes that "there is no modern decisive authority" on the effect of lunacy as a defence to an action for negligence. The Ontario Court of Appeal has recently dealt with this question in *Buckley & Toronto Transportation Commission* v. *Smith Transport Ltd.*, holding that insanity is a defence.[12] The learned editor of the Dominion Law Reports refers to this as a leading case on the point.

The discussion of the doctrine of *Rylands* v. *Fletcher* will doubtless be re-written in future editions in the light of the decision of the House of Lords in *Read* v. *Lyons*,[13] which appeared after the book went to press.

The author deals then with the adequacy or inadequacy from a social standpoint of the rules of liability in tort. The trend toward compulsory automobile insurance and Contributory Negligence acts shows that the common-law rules of negligence do not always produce socially-desirable results. Mention is made of the English Contributory Negligence Act, 1946, but of none of the Canadian statutes which preceded the English act by a number of years. A discussion of unjust enrichment concludes the chapter on tort.

In dealing with the extinction of rights, it is stated that the English rules governing prescription do not give the adverse possessor a full legal title except in the case of easements. It might be noted that under the Canadian Uniform Limitation of Actions Act easements cannot be obtained by prescription and, on the other hand, that one who has obtained a prescriptive title to land may in some provinces at least obtain full legal title.[14]

The chapter on criminal law deals with the theories of punishment, including the question of capital and corporal punishment and juvenile delinquency, the indeterminate sentence and prevention of crime. It might be observed that the Report of the Royal Commission to Investigate the Penal System of Canada[15] contains a careful examination of all these subjects, except that of capital punishment. Book IV concludes with a treatment of property, possession and the law of procedure.

[11] [1933] S.C.R. 456.
[12] [1946] 4 D.L.R. 721.
[13] [1946] 2 All E.R. 471.
[14] The Alberta Land Titles Act, R.S.A., 1942, c. 205, ss. 70–71.
[15] Known as the Archambault Report (1938).

Book V examines the field of law from the standpoint of "interests". This approach, which has been so strongly advocated by Dean Roscoe Pound, is very important in jurisprudence today. Professor Paton divides the principal interests into public and private, and does not employ the category of social interests; this last is used by Pound to include some of those interests classed by Professor Paton as public interests. However, the precise grouping is perhaps unimportant; the value of an examination of law from the standpoint of "interests" lies in its analysis of the rules of law in relation to the wants, claims and desires of persons and of society, the function of law being to effect the best solution of the conflicts between competing interests. This portion of the text is exceedingly brief and might perhaps have been expanded further.

Professor Paton's masterly and comprehensive book has been carefully reviewed in a number of legal periodicals and justifiably praised. With its fair treatment of various controversial topics and its clear exposition of principles and concepts, it is an important and valuable contribution to legal literature. One is pleased to find in a work on jurisprudence frequent reference to judgments of Dominion courts and to the writings of Dominion legal scholars. It would be wrong to criticize the author for restricting the number of citations in a text of this kind. Where in this review reference has been made to Canadian judgments and developments to which the author makes no reference, this has been done simply to indicate the timeliness of the subject matter from the standpoint of Canadian law. A book of this kind stimulates one to think not merely of the separate rules of law but the reasons for them, their relation to each other, their adequacy or otherwise, and contributes toward the building of a better jurisprudence.

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Howe & Hummel: Their True and Scandalous History. By RICHARD R. ROVERE. Illustrated by REGINALD MARSH. With an Introduction by JUDGE JAMES GARRETT WALLACE. Toronto: Oxford University Press. 1947. Pp. 190. ($3.00)

If you are tired of detective stories and have a long train journey in the offing, this book may be for you. Its two heroes are William F. Howe and Abraham H. Hummel, who during the seventies, eighties and nineties of the last century practised law together under the firm name and style of Howe & Hummel, Counselors at Law, at 89 Centre St., New York City, conveniently located opposite the Tombs Prison. Known to the yellow sheets of the period as Howe the Lawyer and Little Abe, their notoriety was so great that, according to a journalist quoted by the author, the reply to the toast "Here's how" was invariably, "Here's Hummel".

As Mr. Rovere tells it, they must have been quite an engaging pair of rascals, unlike in most respects save their common bond of rascality. Where Howe the Lawyer was "a man of enormous frame and girth, deep-chested and lion-headed", Little Abe was "five feet tall or a shade under". Where Hummel dressed invariably in a neat and sombre black, Howe had a penchant for colourful and eccentric dress, often doing a quick change in the course of a

trial so that his costume would accord with the impression he wished to create in the minds of the jury. Like their appearance, their temperaments were in contrast. Howe was the courtroom man, the flamboyant actor-advocate who once addressed a jury for several hours from his knees; Hummel, credited with "superior mental resourcefulness", did most of the office counselling.

Both were disbarred for brief periods in the seventies and Hummel, after his partner had died peacefully in his sleep in 1902, was sent to jail for a year and passed the remainder of his life in exile abroad. The wonder is that they escaped so lightly, for they suborned perjury, bribed juries, fixed judges, blackmailed wealthy playboys and advertised themselves shamelessly. No one will accuse the author of being too harsh when he describes them in various places as "the classic shysters", "lawyers of low practices", "crooked as the horns of a Dorset ram".

Despite these occasional concessions to conventional morality, it is a little difficult to say whether Mr. Rovere admires or deprecates his heroes. In his opening chapter he calls them "beyond dispute the greatest criminal lawyers of their day and quite possibly the greatest in American history". Definitions of greatness may vary of course. The author's criterion seems to be that Howe & Hummel defended more than a thousand people indicted for murder or manslaughter, that they counted among their clientele a large number of the leading madams, fences, pickpockets, forgers, thugs, kidnappers, counterfeiters, gamblers and lady boxers and — of course — that they made a lot of money.

Perhaps one should not be too critical. Mr. Rovere would perhaps say that his aim is to record historical facts, not pass judgment. More likely his only purpose is to entertain. And he obviously has no high regard for, or understanding of the law and lawyers.

According to the publishers' blurb this book first appeared in somewhat different form in the Profiles department of The New Yorker. It would be instructive for someone, someday, to analyze the secrets of the journalistic cult to which it belongs. The style is sometimes entertaining, often amusing and always slick. The scenes flit and flicker from one to another with all the aplomb of an early silent film, and with about the same truth to life. Avoiding the merest suspicion of profundity, the writing sparkles with the tinsel of superficial metaphors and contradictory superlatives. Where the author stands, one is never quite sure; saint and sinner, statesman and ward-heeler, lawyer and shyster are all disposed of with the same off-hand and cynical impartiality. The result is a peculiar and pervading atmosphere of un-morality.

Three dollars is too high a price to pay.

G.V.V.N.

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Immunities and Privileges of International Officials: The Experience of the League of Nations. By MARTIN HILL. Washington: Carnegie Endowment for International Peace. 1947. Pp. xiv, 281. ($2.50)

This is not a text book on diplomatic immunities from which the student could obtain a grasp of the principles or the basis of what used to be called

"exterritoriality" or "extraterritoriality". It is not an analytical or critical study. It is merely a factual description of the practice followed during the last quarter of a century with respect to the diplomatic immunities of certain international organizations and their staffs. Indeed, the greater part of the book is taken up with the reproduction of the texts of the agreements which have been concluded between international organizations and the countries where these organizations have their headquarters.

The establishment of international institutions created brand new problems in the field of international immunities. Formerly, the term "exterritoriality" was used to designate the position of a diplomat residing on the soil of a country other than his own, to which he was accredited, and enjoying immunity from local jurisdiction on the fiction that, juridically speaking, he continued to reside on the territory of his own country. His exterritorial status was derived from a figment of the legal mind, which conceived that the portion of the foreign land on which the diplomat stood automatically became part of the homeland. It was difficult to apply this concept to international officials because several officials from different countries might work in one and the same building. The solution lay in the assumption that the immunity is attached to the function discharged by the official and not to the soil under his feet. On this basis the immunity can apply even to a national, that is to an international civil servant discharging official functions in his own country.

For a discussion of such legal nuances as this, and many come up for solution, the reader will have to turn elsewhere than this book. As a factual record of the situation during a particular period, however, it constitutes a quite useful work of reference.

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Privacy and the Press: The Daily Mirror Press Photographer Libel Action. Edited with an Introduction by H. MONTGOMERY HYDE. London: Butterworth & Co. (Publishers) Ltd. 1947. Pp. v, 280. (6s.)

The Common Law has not yet recognized the so-called "right of privacy", that is, the right to be let alone, to pursue one's own affairs without public scrutiny. When some news event throws a person into the limelight, no matter whether the event be tragic or comic, dignified or ridiculous, important or trifling, the portrayal by the Press to the public is permitted and must be expected of any feature of that person's life, no matter how private or secret it may be, if it is something that may arouse the public interest or even the public curiosity. The person's character must not be defamed, and the law of libel will provide him with redress, if it is. But, subject only to that protection, the freedom of the press may subject the individual to what in many cases is the most unwelcome kind of publicity. The eagle eye of the Press — and of the Press Photographer — is everywhere and the unfortunate individual upon whom it is fastened must expect that his every action may be portrayed, from the cradle to the grave, including both. The normal, quiet, respectable person — presumably the reasonable man of the common law — has no legal right to be protected in his privacy or to prevent the publication of his picture in the newspapers.

A limited protection has crept into the statute law in some American states, as in the State of New York where it is forbidden to use the name, portrait or picture of any living person without his consent, for advertising or trade purposes; and, in addition, there have been some American judgments which indicate a trend towards the partial recognition of a right to privacy even in the news columns, but no decision of the United States Supreme Court has as yet adopted any such theory. Judges in all the English-speaking countries of course have rebuked the Press on occasion for overstepping the bounds of propriety and decency. But the right to speak freely is so inherent in our law that any immediate curtailment of free speech in this regard is neither to be expected nor desired; and the white glare of publicity is something that all public persons always, and many private persons sometimes, must endure in patience.

The book under review is a verbatim account of a recent English libel action involving a press photographer in the employ of the Daily Mirror (*Lea* v. *Justice of the Peace, Ltd.* and *R. J. Acford, Ltd.*). The photographer was the uninvited and unwelcome guest at a fashionable wedding reception in a private residence, following the marriage ceremony at Westminster Abbey of Captain Robert Cecil and Miss Wyndham-Quinn. With the arrival at the house of many wedding guests, the photographer entered unchallenged and asked the groom's permission to photograph the couple. The permission was refused, but in spite of this, a few moments later, the photographer took a flashlight picture. Captain Cecil thereupon struck the photographer several times and destroyed his camera. This incident resulted in the prosecution and conviction of the bridegroom at Bow Street Police Court. The magistrate described the conduct of Captain Cecil as "ungentlemanly" and "cowardly". He was ordered to pay 135 pounds to replace the camera and was fined 10 pounds and costs. The incident was then described and commented upon in an article appearing in the Justice of the Peace and Local Government Review, which attacked the photographer and the Daily Mirror and suggested that the Magistrate's epithets of "cowardly" and "ungentlemanly" exactly fitted the intruders instead of Captain Cecil. The article referred to the "gutter press" and added that the photographer "demonstrated his lack of elementary breeding by taking it in a private house, after being forbidden to do so". The photographer, backed by the Daily Mirror, then sued the journal for libel, and the account of this three-day trial is entertaining and instructive. Sir Valentine Holmes, K.C., who has appeared in many leading English libel cases, successfully established for the defence their pleas of both justification and fair comment; and the plaintiff at the end of his unavailing libel action, as has happened on numerous occasions before in the law of defamation, was left in a worse position than if he had never started the suit.

The case does not make any new law, for it largely turned upon the facts, as to whether the photographer was a trespasser or, by implication, had been made welcome and accepted in the house. The learned judge, Mr. Justice Hilbery, who during the trial and in his judgment directed some scathing words at the methods of modern news-gathering, attached some importance to the fact that the photographer, on the way from Westminster Abbey to the private house where the reception was to take place, purchased a red carnation to put in his buttonhole. He explained that the purpose of the purchase was because he planned to attend a Socialist party that night, and a "red carnation was more or less a Left Wing Emblem". However

Mr. Justice Hilbery (who was sitting without a jury) declined to accept this explanation. "The fact was" said the learned judge "that he did it and he bought it in order to make himself look more like a wedding guest and to facilitate, as I am sure he thought it might facilitate, his passing by any scrutiny there might be at the door . . . ". Nor did the judge regard favourably the answer that the photographer gave to a question by the best man as to the paper he represented. The photographer's reply was "The paper of the times". The best man assumed, quite understandably, that he meant the London Times.

The judge then used these terms in describing the plaintiff's behaviour: "What did Mr. Lea do? As I have said, he made himself look as much like a wedding guest as he could. He had got in, in my view, clearly with the intention of getting a photograph of the bride and the bridegroom, with permission if he could get permission and, if he could not get permission, he wanted to get the photograph anyway. He was in that mind, because he still holds the view apparently that he has some high mission as a press photographer to portray to the vulgar, the idly curious and, on some occasions, morbidly minded people the private lives of other people and incidents in the private lives of other people; that is what he called, I think, portraying life. It was in that way of thinking that he was privileged because he was a press photographer that he was determined to have a photograph. He does not recognise such a thing as privacy or that people's private lives can be sacred even from the illustrated Press."

Then Mr. Justice Hilbery uses this language, which is perhaps more a matter of manners than of law: "I do not think it can be too strongly emphasised that in this country the Press has no right to go upon private property or into private places or to intrude upon private people and into private rights, and that the standard of conduct and manners demanded of them is as high a standard as should be demanded of every citizen in a civilised community". He then dismissed the action with costs. Of course, the judge might have added that the public have no sacred right to prevent publicity from attaching to their names, their faces or their actions and that as long as the reporter or photographer does not trespass upon their property and as long as he writes the true facts, he too is entitled to be protected and to go about his very useful calling in peace. There have been too many reporters assaulted and too many cameras broken in this country by spiteful persons, the incidents occurring in public where no suggestion of trespassing could arise.

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Précis de Droit international Privé. Vol. 1: *Les notions fondamentales du droit international privé.* By P. ARMINJON. Third edition. 1947. Paris: Librairie Dalloz. Pp. 461.

It is a pleasure to receive this book for review, for it is an early proof that French legal authors and publishers are on the march again after several years of frustration due to the war and the annihilating occupation of France by the enemy; and also because Professor Arminjon has very kindly inscribed on its first page his "Hommage de l'auteur, P.A." This reviewer in turn

would pay his homage to the distinguished *Professeur honoraire aux universités de Genève et de Lausanne* and *Associé de l'Institut de droit international,* the first volume of whose third edition, completely rewritten and greatly augmented, is fortunately now available. The second edition has been out of print for over ten years. In his very useful bibliography of works dealing with the conflict of laws as a whole, published during the nineteenth and twentieth centuries throughout the world, sixteen French authors are listed, all of them well-known names, and of these but one is represented by a book as late as 1947 and one as late as 1946. So much for the bitter and impoverishing effects of the war; though France was the cradle, and for centuries has been a creative source, of modern conceptions of private international law.

This volume, as already indicated, is devoted to a discussion of fundamental principles, of which Professor Arminjon is both an expositor and a critic and analyst. He introduces several quite new chapters and subjects, notably those dealing with Anglo-Saxon doctrines; the contrast between the unified legal system of France, for example, and the complex systems in force in countries like Switzerland, the United States, Canada, and indeed within the units of the British Commonwealth and Empire, where there can be said to be conflicts of law that are internal as distinct from conflicts that, involving the laws of truly foreign systems, are external; fiscal, political and monetary laws; international conventions; the solution of conflicts of laws applicable by arbitrators and international courts; the mode of applying and interpreting *des règles des rattachements* (connecting factors) and the law thereby designated. There is a most comprehensive discussion of the thorny subjects of *qualification* or characterization and of *renvoi,* with a refutation of numerous diverse and contradictory theories which would make competent a foreign law rather than that of the forum. Here, as in his earlier edition, Professor Arminjon combats the deductive process of reasoning from postulates which, he indicates, because of its almost universal practice, has made for confusion and contradiction; and emphasizes the value of the analytical and positive approach to and search for principles as the proper foundation of a more generally accepted system.

This is a book very different from books like those of Dicey or Westlake with their succinct and numbered rules, exceptions, and lists of decisions for and against, mechanically rigid — though immensely helpful to the practitioner. It is rather a flowing, connected and exceedingly well ordered discussion and argument, from point to point and chapter to chapter — what in France and Quebec we know as *la doctrine,* a writing about and profound analysis of principles of law in a search for their true and inevitable meaning; though, since doctrine may have as many plausible facets as there are jurisconsults writing about it, we sometimes do find it difficult to choose in the office and to convince in court. But such a book is in a long and honoured tradition, a challenge and a stimulant.

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