I Too, NICODEMUS. By Curtis Bok. New York: Alfred A. Knopf. 1946. Pp. 349. $3.50.

On the opening page of his book, Judge Bok expresses the hope that it is neither a novel nor a collection of court stories, but rather "a cross section of the array of situations that a trial judge meets in his work and must solve somehow." But Judge Bok's expressed wish for his child is too modest; the youngster turns out a bigger fellow than his sire could anticipate.

Judge Ulen, about whom the tales are told, is the central figure as he was in *The Backbone of a Herring*.[1] He is quite a man. He has a charming and understanding wife who has a sense of fun. He has lively, appealing and uninhibited children. He has a circle of friends whose conversational sparks fall in such a shower that the Judge would surely be blinded by them if one did not feel that Ulen's mentor had collected them from many occasions and stored them for release when ready as children gather fireflies in a bottle. Mr. Justice Holmes is said to have done the same thing with the flashing epigrams which gave such sparkle to his opinions.

In this book we see Ulen at home with his family, at Friends Meeting of a First Day, out to lunch with the scintillating friends heretofore mentioned. We see him through a vacation in Maine as well as at work in his court room. Even if one were interested primarily in Ulen doing his work as a judge, this material is all relevant. As the author himself says "A little of these must be known in order to feel the integrity of experience of which his work is the outward expression."

So for something more than three hundred pages, in what Judge Bok calls his "Preface" we have Ulen at work and at play. It is good writing, all of it, and a pleasure to read. The family scenes are highly satisfactory; I find myself going back and reading them several times over. The court room stories are richly varied. Here are no knights in shining armour, nor villains black as night. Rather here are a group of what are for the most part not unusual human beings who are in a jam of one kind or another. They uniformly have the not unnatural desire to get out of the jam with as little damage to themselves as possible. They have good luck to meet Ulen, for he is kind and fair and sympathetic without being mawkish. One need not be a lawyer, nor have interest in the lawyer's craft to enjoy all this to the full.

A man of the law could hardly be expected not to talk shop at all, and Judge Bok makes no pretense of doing so. "A good judge," he says, "must have an enormous concern with life, and a sense of its tempestuous and untamed streaming." Otherwise he becomes a stuffed shirt the moment he puts on a judicial robe. And have we not all known such?

Ulen gives the impression of looking down his nose at legal rules as found in the books. Indeed he adopted for himself the motto, "Use as little law as possible." The only specific items which appear to arouse his impatience are, however, certain of the rules of evidence on which his

1. See (1941) 90 U. OF PA. L. REV. 237.

academic legal colleagues have been breaking their lances for several decades. Ulen also remembers that his friend Nathan declared that the best legal brains should be magistrates, and that young essay writers just out of law school would do as appellate judges. Does Ulen believe that? He carefully refrains from saying either yes or no. If the proposition interests him, he had better read again Cardozo's "Nature of the Judicial Process," and see what a conscientious appellate judge says about his legal job.

The magistrates attract Ulen, however, for he finds in their courts a "refreshing simplicity of procedure and freedom from rules," where "the law of the books is being bent every day—to fit it to the needs of the community." This reviewer does not know the fact; he does not see magistrates' courts in action. From what he hears lawyers say, he gets the impression that the simplicity is not at all refreshing and that the bending of the rules is not for the unselfish purpose of making them fit the community's needs. Is Ulen right?

Ulen gets beyond me every once in awhile. "The law must retain its character as a wistful promise if it is not to become a bludgeon altogether." That is the topic sentence of one paragraph. I do not understand it nor am I helped by the development in the words which follow. Ulen will appear again, I hope. When he does, perhaps he will develop this and similar points a bit further. I have a feeling, though obviously not a conviction, that many of us would respond "Amen" if we saw the point more clearly.

But let this be clear—"I Too, Nicodemus" is a grand book and a joy to read.

Herbert F. Goodrich.†

THE ECONOMIC AND FINANCIAL ORGANIZATION OF THE LEAGUE OF NATIONS. By Martin Hill. Carnegie Endowment for International Peace. Washington, 1946. Pp. 156.

In the perspective of the United Nations' first trials with the tribulations of peace, the discarded League has acquired new stature. Much of merit in the League's record went underground with the collapse of collective security. Martin Hill has now resurrected in a succinct and measured study, published by the Carnegie Endowment for the International Peace, the important experiences of the Economic and Financial Organization, the largest of the League's technical organs. The account is impressive—and sobering—before the immensity of the current reconstruction task. Notable accomplishments in the revival of world economic life were secured through international effort, then strangled between the hands of depression and conflicting national political aims.

Mr. Hill in his personal career has abridged the generations of the League and the United Nations. Formerly a member of the Economic, Financial and Transit Department of the League Secretariat, he has now joined the staff of the Economic and Social Council. In addition to his

† Lecturer at University of Pennsylvania; Judge of the United States Circuit Court of Appeals for the Third Circuit.

first-hand knowledge of the procedures, successes and failures of the League's organization, Mr. Hill has a fine sense of the significant in the experience which he reviews. The book therefore has a practical value for the commoner as well as for the expert.

Implicit throughout the work of the Economic and Financial Organization ran the assumption that the achievement of peace requires economic stability. The members strongly believed that failure to attain a smooth transition from war to peace economy, to reach high levels of employment, to provide adequate relief and to coordinate the economic policies of important countries would foster the conditions under which militarism flourishes, and sap the vitality of the international security system.

This conviction, however, did not grip the policy-makers of states with the same force as it did the international Secretariat. Most governments, Mr. Hill notes, were "supremely suspicious of any suggestion of international control and reluctant to accept any binding agreement on matters of economic and financial policy." Furthermore the very technical development which would have made possible an "immense advance in material welfare if the economic significance of political boundaries were reduced, also made national self-sufficiency more easy to achieve." For a fateful decade, the nations hesitated to make a clear choice between nationalism and internationalism in their economic policies, then during the depression plunged deep into economic isolationism.

The Organization inevitably suffered from this indecision. It could only act if governments wanted it to act. It had no power to enforce decisions. As a purely voluntary form of association, its role was to advise, study, discuss, and coordinate. It could not force fresh air into the economic atmosphere of Europe and Asia. It could only breathe what was already there.

Under these circumstances, the League's achievement in economic and financial reconstruction during the 20's was remarkable. The desperate condition of Austria, for instance, was remedied. Sheared off by the peace treaty from the former life-streams of her economy, Austria had become the kept orphan of Europe. In March, 1921, Great Britain, France, the United States and Italy asked the League of Nations to propose a general scheme of reconstruction. Austria's creditors were persuaded to release their liens on important state revenues, a loan of £26,000,000 was raised by public subscription in ten different countries and guaranteed by eight European states, the Austrian currency reestablished on a gold basis, and a long-term program planned to balance the budget. As a result, "the fall of the Austrian crown was immediately checked, capital returned to the country, the budget was soon balanced, domestic savings increased and the ground was laid for the economic reconstruction of the country." Similar plans for other countries in the chaos of Central and Eastern Europe yielded like success.

The secret apparently lay in the fine skill with which the League's Organization sidestepped points of political controversy, either within the country concerned, or internationally. Each scheme had to be acceptable not only to the government of the country aided, but to the large mass of public opinion in that country so that the plan would not become a factional issue. The plans had also to avoid any exclusively national interest which might antagonize other states. The League had to feel the pulse of a wide investing public and by tactful supervision provide assurance that the obligations assumed would be carried out.

Efforts to promote world trade and reduce discriminatory trade practices, Mr. Hill indicates, were much less successful. After three years of intensive preparation by the Economic Committee of the League, a diplomatic conference called in 1927 agreed on the abolition of all import and export prohibitions, but immense difficulties were encountered in putting the convention into effect. The same year, a strong concensus of opinion developed at the World Economic Conference, favoring the reduction of tariffs and the elimination of trade barriers other than tariffs. At no time between the two wars were conditions more conducive to tariff reduction and closer economic cooperation. Yet the high expectations of the Conference remained unrealized. The failure came partly because the U. S. reverted to protectionism with a vengeance in 1930, adopting the Hawley-Smoot tariff. Even more responsible was the swift onslaught of the depression. Governments, though recognizing the dangers of the movement towards increased isolationism, felt unable to pay the price required to arrest it. For many countries a unilateral tariff reduction would mean, not increased productivity, but increased unemployment. Debtor countries feared an enlargement of imports would jeopardize their balances of payments.

Mr. Hill also believes that governments made two fundamental errors in their approach to the tariff problem in the 20's. First, trade policy was treated as something distinct from economic policy as a whole. Second, the size of the task was underestimated and no adequate international organization created to promote world trade. It was assumed that given goodwill and understanding, the international authority need only furnish guidance and technical preparation to individual governments to put into effect the program of the World Economic Conference. Actually a much firmer leadership was required at the international level.

The depression confronted the League's Economic and Financial Organization with problems of a magnitude which defied any solution. Though the Organization continued to furnish helpful assistance to countries for which it had previously arranged loans, enabling some of them to stagger through the storm, no progress could be made towards resolving the main economic and financial difficulties responsible for the world crisis. The technical staff supplied facts, worked out the bases of possible agreements for collective action, investigated technical problems. But the task was increasingly hopeless and disheartening. The London Economic Conference of 1933, last major effort to meet the crisis by world-wide concerted action, broke on the unwillingness of the U. S. to stabilize the dollar, thereby dooming any agreement on trade policy.

The work of the Organization therefore had to be redirected. From attempts to secure measures of general reform, it moved to particular problems, such as international double taxation, which could be attacked in part by agreements between two or a few nations. Conferences were called limited to those states directly concerned with a specific subject, such as the London Wheat Conference in 1933. More important in the long-run, the Organization launched a series of intensive inquiries into critical economic subjects. Because of unique access to sources of information and the assistance of experts in all countries, such inquiries carried weight and on occasion influenced government policy, for instance in regard to the gradual relaxing of clearing agreements and exchange controls.

The greatest value of the studies was the broad foundation of knowledge made available against the time when a comprehensive attack could

be planned on such problems as access to raw materials, international migration, the relation of nutrition to economic policy, and the causes of depressions. Here was far-sighted preparation for a better world in the unseen future. A conviction grew on members of the Organization says Mr. Hill, that "it was necessary to get behind abstractions and approach in a more direct way the real human problems that were calling for a solution." The reorientation of the work represented "the assertion of a humanist philosophy by the members of the League at a time when . . . military preparations were becoming the first consideration of policy and certain powerful countries were fostering the worship of the state and proclaiming the doctrine of force."

This new direction persevered through the war years. The core of the staff moved to Princeton, N. J. and quietly continued to compile and interpret the critical data which would be needed should any world-wide approach to post-war reconstruction be undertaken.

The world crisis not only forced the Organization to change the method and content of its work, but led the League Assembly in December 1939 to approve of drastic changes in structure on the basis of recommendations by the "Bruce Committee." Though never put into effect, the proposed reform virtually laid the pattern for the United Nations Economic and Social Council. A Central Committee was to direct the economic and social work of the League, composed of government representatives selected for their connection with the shaping of economic rather than political policy, and including also some members in a personal capacity, selected for their special knowledge and competence. Formerly the Economic and Financial Organization had been responsible to the Council and to the Assembly, hence to diplomats rather than to men concerned with commerce and finance. Under the new structure, states which were not members of the League would be free to take an active part in the economic and social work if they so desired.

The creation of the Economic and Social Council by the United Nations, with the broad powers granted to it in the Charter, is really a tribute to the effectiveness of its predecessor. No deeper satisfaction can have come to Mr. Hill and those with whom he was associated in efforts so repeatedly fruitless, than to see the value of their handiwork completely recognized at San Francisco and since.

Yet the new venture cannot dodge the same profound dilemmas which beset the League's economic organization. The technical solution of major problems of economic relationships will still depend ultimately on political solutions, because as Mr. Hill has so clearly shown, economic problems—tariffs, commercial discrimination, access to raw materials—are likewise political problems of first magnitude. A deep adjustment in traditional national attitudes is necessary to treat as of international concern, matters which have always been held to be of paramount domestic significance. Such an adjustment can come only slowly.

Enlightened policies of international economic cooperation are possible, we are warned further, only when there is adequate employment and general confidence in the maintenance of peace.

For those who would turn from the wrangling of the Security Council to the less vitriolic sessions of the Economic and Social Council in a hunt for encouraging prospects of peace and prosperity, Mr. Hill's record offers only cool comfort. Peace will obviously require more than the economist's

knowledge. Peace will require the statesman's restraint, the neighbor's goodwill, the prophet's vision of human brotherhood—and the imperative of the atom.

Philip E. Jacob.†

THE FISCAL IMPACT OF FEDERALISM IN THE UNITED STATES. By James A. Maxwell. Harvard University Press, Cambridge, Mass., 1946. Pp. XVI, 427. $5.00.

The coordination of the finances of our federal, state, and local governments is a subject to which much attention has been devoted in recent years and concerning which many recommendations have been made. A few years ago a Treasury committee issued a comprehensive report which advanced what was assumed to be an evolutionary and middle-of-the-way plan of coordination.[1] Federal grants to the states were to be increased, an experiment in federal-state tax sharing was to be undertaken, certain revenues were to be reserved for each grade of government, and various other methods of fiscal coordination were to be employed, including the inauguration of a Federal-State Fiscal Authority charged with the authority of promoting federal, state, and local fiscal coordination.

An important addition to the literature dealing with fiscal coordination is the study by James A. Maxwell, Professor of Economics at Clark University, who is well known for his study of Canadian grants-in-aid. The volume provides a historical account of the growing power of the federal government and the relative decline of the states and also a program for the coordination of the finances of these governments. Our federal governmental structure is found to be plagued with the dilemma of popular demands for an increasing centralization of authority in the performance of functions of national concern, on the one hand, and the urge to preserve the states in spite of their limited financial resources, on the other.

The author first indicates the strengthening of the federal power in national defense and other functions. Efforts to compromise with the demands for a state militia have somewhat handicapped the efficiency of the National Guard, and the possibility of further federal centralization is suggested. The early fears that a standing army would be a menace to democracy are now thought to be groundless. An expansion of federal influence in the area of justice and police protection is also envisioned, although the author apparently thinks these are primarily state functions.

Similarly, the burden of education is thought to fall primarily upon the states, but an extension of federal grants is proposed. The reader will be somewhat confused by the initial recommendation (page 110) that, "With the sole exception of vocational rehabilitation, no expansion should be made," and the concluding recommendation (page 404) for the addition of grants for general education, which would appear to modify the earlier recommendation.

† Professor of Political Science, Wharton School, University of Pennsylvania.

1. A Report to the Secretary of the Treasury by a Special Committee, designated to conduct a study on Intergovernmental Fiscal Relations in the United States, *Federal, State, and Local Government Fiscal Relations,* Senate Document No. 69, 78th Congress, 1st Session, 1943.

The federal grants for public assistance have followed faulty principles of distribution to the states and need to be reformed. The author declares, "The grants for old-age assistance now present the grotesque spectacle of a means by which larger relative sums are paid to richer than to poorer states." (page 128) He proposes that the various welfare grants shall be distributed on a basis of needs in relation to resources, with an acceptance of the equalization principle and an earnest effort to develop more satisfactory measures of needs and resources. Federal grants are regarded as possessing sufficient flexibility to provide a rational reconciliation of federal, state, and local responsibilities. Of interest to the reader is the author's appraisal of the work of the Works Progress Administration during the thirties. He says, "No organization in our peacetime history ever handled such large funds with so little corruption and political favoritism." (page 162) Nevertheless, a different relief structure is suggested for the future, with emphasis upon conditional grants. The program of the Public Works Administration is also studied and the conclusion is reached that the national coordination of public works relief projects can be attained, with a great degree of decentralization, by the use of federal grants and loans.

The rise of the federal influence in highways is outlined and a larger federal responsibility is forecast. The federal grant program is found to have been an orderly development, and an expansion of conditional grants is anticipated. Government interest in public health is growing and there is an opportunity to extend federal equalization grants. The entry into unemployment insurance with a joint federal-state program is considered necessary because of both constitutional and administrative factors. The author thinks a federal system of unemployment insurance would now be accepted as constitutional and he apparently favors taking this step, to which the "federalization of the employment service should serve as a desirable prelude." (page 237)

On the expenditures side, Professor Maxwell's plan of fiscal coordination calls for increased federal action in the fields mentioned and substantial reliance upon conditional grants to the states. Like many other American students of grants, he emphatically rejects unconditional grants which give the recipients freedom to spend the funds handed to them without any responsibility for raising the revenues required to finance the grants. His program calls for more centralization, but he wants to preserve the states and not to sacrifice them to the powerful federal government. This raises the age-old question about centralization. Can the lion and the lamb lie down together without having the lamb inside the lion? Are the states doomed to die by a strangulation process which consistently tightens the rope about their necks? Or can the processes of centralization be appeased and a lasting compromise be worked out that will maintain the states as strong, active bulwarks of democracy? More fundamental than any sentimental concern over the future of the states and their rights to survival, does the American democracy really need the states, or can it function most effectively if the states become completely subservient to the federal government and remain only as its subdivisions, much as the local governments exist as subdivisions of the states?

On the revenue side, fiscal coordination is to be promoted by having the states surrender the income tax immediately and the death tax eventually to the federal government, which, in turn, is to get out of the gasoline tax field at once and gradually to retire from liquor taxation, except

for regulatory purposes. The advantages of a nationally uniform system of personal and corporate income taxation appeal to Professor Maxwell, who sees no probability that the states by voluntary action can approach this goal within any reasonable time. Federal collection and state sharing of the income tax is dismissed because of the difficulties encountered in deciding upon the proper basis for distributing the share of the states. While discussing the problem of coordinating corporate and personal income taxation, the author reaches the conclusion that the most promising solution is the taxation of corporations in the same manner as individuals are taxed. As a consequence, undistributed income of corporations would be taxed, along with the distributed income, to the individual owners with the personal income tax. The legal and practical difficulties suggested by this proposal are not discussed.

Professor Maxwell prefers a higher progression of death tax rates than the states are likely to impose. Since many estates are accumulated as a result of interstate investments and activities, it is argued that the federal government, representing the whole national community, has a prior claim to at least the larger estates. Eventually, it is proposed, the federal government should take over the death tax filed, for the immediate future, the taxpayers, as suggested by the Treasury Committee, might be allowed a credit against the federal estate tax of 50 per cent for the payment of state taxes on the amount of estates not exceeding $100,000 and a credit of 25 per cent for the payment of state taxes on the part of the estates exceeding $100,000. This more liberal crediting would permit the states to enjoy the benefits of a higher credit against the smaller estates at least.

The state commodity taxes have a number of weaknesses, in the opinion of Professor Maxwell. Discriminations may arise against either interstate or intrastate commerce, the features of the taxes and their administration differ, their administration overlaps, and the taxpayers must suffer heavy compliance costs. So far as general sales taxes are concerned, the author thinks it is questionable if they are desirable sources of state revenue and that the introduction of federal collection and state sharing would tend to perpetuate an objectional institution. The states seem to collect the gasoline tax with fair success and it is proposed, apparently as compensation to the states for the sacrifices the author asks in other areas, that the federal government withdraw from this field, but on the condition that the states put their houses in order and better coordinate their motor-fuel taxes.

The way out of the uncoordinated federal and state tobacco taxation is sought in federal collection and state sharing, following the proposal of the Treasury Committee and some other students of tax coordination. The state taxes upon alcohol are considered to be discriminatory, confusing, and rather poorly administered. It is implied that state liquor monopolies would be preferable to taxation because of their assumed regulatory advantages, the easier enforcement of the law, and other advantages. The author proposes that the federal government shall withdraw from alcohol taxation, except for the imposition of any necessary regulatory duties, but again only if conditions which are stipulated to end discriminations against interstate trade and to meet other problems are accepted by the states. As with the proposal to leave the gasoline tax to the states, the reader may feel the author does not make a very strong case for federal withdrawal. How can Congress be persuaded, for example, to relinquish alcohol taxes that are currently yielding some $2.5 billion annually? The author presumably relies upon the attractions of his over-all scheme of fiscal coordination and

the advantages to the federal revenues which would come from such steps as the surrender by the states of their income taxes.

Professor Maxwell has written a scholarly essay on the problems of fiscal coordination and their history in our federal system of government and has proposed a program for the more effective coordination of federal, state, and local finances. He believes the issue of states' rights is dead and should be buried, and he prefers a bold frontal attack on coordination rather than a timid piece-meal approach. The general subject of fiscal coordination is a highly controversial one, as every student knows, and it involves, fundamentally, the coordination of our federal, state, and local governments and not simply their financing. No plan of coordination has yet won universal approval, and Professor Maxwell's plan will probably be condemned by those who would take away power from the federal government and be praised by those who think that greater centralization is desirable but who do not want, at least for the present, to go the whole length. The book is stimulating and performs a real service in bringing to the fore the problems and issues of fiscal coordination. The reviewer therefore recommends it to those who wish to explore further some of the labyrinthian mazes of a highly intricate but fascinating subject.

Alfred G. Buehler.†

MANUAL DE DERECHO INTERNACIONAL PRIVADO. By Victor N. Romero del Prado. Buenos Aires: Editorial La Ley. 1944. Two Vols. Pp. 987 and 1079. $60.00.

This new "Handbook on Private International Law" which has appeared in Argentina, is a valuable addition to the literature on the conflict of laws. The author, Dr. Romero del Prado, professor of private international law at the renowned National University of Cordoba, is known from his previous studies of specific topics in the conflicts field.[1] Engaged in the production of a treatise on private international law in nine volumes, of which the first two have appeared,[2] he now presents the "Handbook" for the needs of students. Rather than a handbook, this work in two large volumes may be called a comprehensive treatise. According to the preface the work purports to show the scope of the subject-matter, to present its basic problems, the old and the new theories, the modern evolution of the principles, the solutions suggested by leading authors and the status of the law in Argentina and foreign countries on specific questions. This ambitious program has been executed to an impressive extent.

Presentation of general topics fills approximately one third of the work. The author first discusses the meaning of what is termed a "norm" of private international law. He states what he considers to belong to

† Professor of Political Science, Wharton School, University of Pennsylvania.

1. LAS PERSONAS JURÍDICAS EN EL DERECHO INTERNACIONAL PRIVADO (1926); CIUDADANÍA Y NATURALIZACIÓN EN LA DOCTRINA, LEGISLACIÓN Y JURISPRUDENCIA (1930); EL DERECHO INTERNACIONAL PRIVADO EN EL CÓDIGO CIVIL ARGENTINO Y EN EL ANTEPROYECTO DEL DR. JUAN A. BIBILONI (1935); EL DERECHO INTERNACIONAL PRIVADO EN EL PROYECTO DE CÓDIGO CIVIL DE LA COMISIÓN REFORMADORA (1937).

2. TRATADO DE DERECHO INTERNACIONAL PRIVADO (I: 1942); (II: 1943).

the branch of the law called "private international law" and discusses the relations of this branch with other branches. Whether nationality is a subject for study in the Conflict of Laws is discussed at length. The author then outlines the concept of the extraterritoriality of the law and of Savigny's "community of law," giving the latter his full support. The following chapters include the history of conflicts law from the "statute theory" to the most recent theories and the history of the codifications. Public policy, *renvoi,* and qualifications are discussed in the part which follows. The author opposes exaggerated use of the public policy clause. He declares himself against the admission of *renvoi.* On the subject of qualifications he advocates resort to the *lex fori.* The main body of the work contains chapters on domicile, natural and legal persons, marriage, succession, property, form of acts, contracts, copy-right, commercial law, negotiable instruments, corporations, bankruptcy, maritime law, procedure, penal law, labor law, air law and taxation. Enumeration alone of these chapters indicates the extended scope of the work. Indeed, considerably more is given than could be easily presented to the students in a class on Conflict of Laws.

Throughout the work, but particularly in the first part, the reproduction in the text of excerpts from representative writings on the subjects is the method applied generally in the presentation of the problems and doctrines which have been developed. Quotations sustaining a certain viewpoint are followed by critical comments. The reader is thus given a considerable amount of source material. American readers will note with special interest valuable material from writings in Spanish and Portuguese which are not so well-known here. The author's own views and preferences are either expressed directly or follow from the arrangement of the material. The excellent choice of the quotations shows the author's command of the literature.

In presenting Anglo-Saxon doctrines by means of quotations, the author has made use of writings in Spanish or French on the subject and of those works of English and American authors which have been translated into Spanish or French. While only Story's *Commentaries on the Conflict of Laws,*[3] Westlake's *Treatise on Private International Law,*[4] and Beale's *Summary of the Conflict of Laws*[5] have had a translation, works in the French language on Anglo-Saxon doctrines are numerous. The opposite is true for material in Spanish. Used in the work are notably the lectures, in French, at the Hague Academy of International Law by American[6] and English[7] lawyers, Wigny's essay in French on American

3. STORY, COMENTARIOS SOBRE EL CONFLICTO DE LAS LEYES (traducción castellana de Clodomiro Quiroga) (Buenos Aires, 1891).

4. WESTLAKE, TRAITÉ DE DROIT INTERNATIONAL PRIVÉ (trad. sur la 5e éd. (1912) par Paul Goulé) (1914).

5. Beale, *Les principes directeurs de la doctrine du conflit des lois* (France, 1937) 32 REVUE CRITIQUE DE DROIT INTERNATIONAL 1 AND 393. This is a translation of the "Summary" in 3 BEALE, CASES ON THE CONFLICT OF LAWS (1902) 501, reproduced in BEALE, SELECTIONS FROM A TREATISE ON THE CONFLICT OF LAWS (1935) 1.

6. Kuhn, *La conception du droit international privé d'après la doctrine et la pratique aux Etats-Unis* (1928) 21 RECUEIL DES COURS 193.

7. Bellot, *La théorie anglo-saxonne des conflits de lois* (1924) 3 RECUEIL DES COURS 99; Colombos, *La conception du droit international privé d'après la doctrine et la pratique britanniques* (1931) 36 RECUEIL DES COURS 5; Bentwich, *Le développement récent du principe du domicile en droit anglais* (1934) 49 RECUEIL DES COURS 377; Foster, *La théorie anglaise du droit international privé* (1938) 65 RECUEIL DES COURS 399.

private international law,[8] Barbley's article in French on the work of Beale,[9] and García-Amador's article in Spanish on principles of present-day North American private international law.[10]

The part of the work which deals with the positive law is of particular value to the foreign reader. The status of present-day Argentine conflicts law is outlined in detail and with great clarity. Relevant statutory provisions are reproduced and commented upon. Court decisions are indicated. The historical development is given up to the reform projects, the Bibiloni draft and the draft of the Reform Commission. The contents of the treaties of Montevideo on Private International Law are likewise covered as Argentina is a partner to these treaties.

While domestic law occupies the first place, foreign law is also included in the presentation and the comparative method is used with profit. References to European laws and to the laws of other Latin American countries are frequent. The recent changes in the statutory conflicts law of Italy and Brazil are noted. The solutions adopted in the Bustamante Code of Private International Law are indicated with special care. Proposals by the Institute of International Law and the conventions and drafts of the Hague Conferences on Private International Law are cited.

Compared with the references to foreign civil law, the references to present-day American conflicts rules are rare. One would have wished to find in this excellent work greater consideration of the positive American law in the interest of a "rapprochement", greater uniformity in the conflict rules of the legal systems in the Western Hemisphere. The Restatement of the Law of Conflict of Laws, prepared by the American Law Institute, which states the American conflict rules in a form usable by civil law lawyers, is mentioned; and also the fact that there is a French edition.[11] If, however, references to rules in the Restatement are few, it may be that the author has found that for this students' edition he should postpone extensive use of the Restatement until the long announced Spanish edition of the Restatement[12] has been published.

---

8. WIGNY, ESSAI SUR LE DROIT INTERNATIONAL PRIVÉ AMÉRICAIN (1932), reviewed (1934) 48 HARV. L. REV. 149 (Lemann). Wigny, a Belgian lawyer, is co-author of the excellent AVANT-PROPOS and notes to the French translation of the RESTATEMENT, CONFLICT OF LAWS, *infra* note 11.

9. Barbley, *L'oeuvre du Professeur Beale de Harvard* (France, 1936) 31 REVUE CRITIQUE DE DROIT INTERNATIONAL 86. Barbley, a French lawyer, is author of LE CONFLIT DES LOIS EN MATIÈRE DE CONTRATS DANS LE DROIT DES ETATS-UNIS ET LE DROIT ANGLAIS COMPARÉS AU DROIT FRANÇAIS (1938), reviewed (1938) 32 AM. J. INT. L. 873 (Lorenzen), (1938) 38 COL. L. REV. 1328 (Cheatham).

10. García-Amador y Rodriguez, *Principios que informan el derecho internacional privado norteamericano actual* (Cuba, 1940) 38 REVISTA DE DERECHO INTERNACIONAL 107. García-Amador, a Cuban lawyer, is presently engaged in the preparation of a translation into Spanish of the RESTATEMENT, CONFLICT OF LAWS, according to the Report of the Director of the American Law Institute (1946) 22 PROC. A. L. I.—(at p. 39 of the separately-printed Report).

11. EXPOSÉ DU DROIT INTERNATIONAL PRIVÉ AMÉRICAIN, *présenté en forme de Code par l'American Law Institute,* (Restatement on (sic) the Law of Conflict of Laws), traduit et annoté par Pierre Wigny et W. J. Brockelbank (1938), reviewed (1938) 24 A. B. A. J. 1010 (Sims), (1939) 87 U. OF PA. L. REV. 632 (Kuhn). No mention has been found of Professor Lorenzen's comprehensive *Droit international privé des Etats-Unis d'Amérique* in 6 DE LAPRADELLE ET NIBOYET, RÉPERTOIRE DE DROIT INTERNATIONAL (1930) 269-378.

12. *Cf.* Lewis, *The first Restatement of the Law and How we did it* (1946) 25 NEB. L. REV. 206, 219.

A chapter in the "Handbook" of special interest is that on Marriage.[13] It explains in a masterly way the status of the Argentine law on this subject. It is well known that the Argentine marriage law does not allow absolute divorce. This has led to the usual "migratory divorce" problems. The Argentine statute provides that a foreign divorce of a marriage celebrated in the Argentine Republic does not entitle either of the spouses to remarry if the divorce is inconsistent with the Argentine Code.[14] This provision has been construed in different ways by leading authors with respect to the validity, in Argentina, of the second marriage concluded abroad; and a literature has developed which, it seems, is comparable in size to that on *Haddock v. Haddock* and *Williams v. North Carolina* in this country. The reader will note with interest that reference was made to *Haddock v. Haddock,* now overruled by *Williams v. North Carolina,*[15] in the part of the Bibiloni draft dealing with divorce jurisdiction.[16]

Particularly useful to foreign readers is the chapter on International Procedure [17] which includes information on letters rogatory and the status of the Argentine law on the execution of foreign judgments. The provisions of the Codes of Procedure of the Federal Capital and of the Province of Cordoba are reproduced with a summary of court decisions.

The subject of Bankruptcy is covered in great detail. The chapter,[18] which includes a comprehensive bibliography, opens with a discussion of the two principal theories. The pro and con of each theory is outlined, again with the use of quotations. Intermediary solutions are considered, the author stating his preference for that of the Montevideo treaty of 1889. The various phases of bankruptcy are examined from the viewpoint of the conflict of laws. The positive Argentine law is outlined with a reproduction of the statutory provision and of the various constructions given it by leading authors. Court decisions are cited. The provisions of the Montevideo treaties of 1889 and 1940 are reproduced with a critical appraisal of the changes made. The text of the bankruptcy provisions in the Bustamante Code and the various drafts of the Institute of International Law and the Hague Conferences are also given. The author does not comment critically on the provision in the Argentine bankruptcy act which grants local creditors a right of priority of payment over the creditors abroad in the case of concurrent bankruptcies;[19] nor does he enter into a discussion of the criticisms directed at that provision by prominent Argentine lawyers.[20] The author voices, however, his disapproval [21] of the change made in 1940 in the Montevideo Treaty to the effect that henceforth the local priority rule will be applicable in all circumstances which is not the

13. Chapter XXI, Vol. II, p. 83.

14. *Cf.* RABEL, THE CONFLICT OF LAWS: A COMPARATIVE STUDY (1945) 426, 431, 498.

15. See Goodrich, *Five Years of Conflict of Laws* (1946) 32 VA. L. REV. 295, 299.

16. Vol. II, pp. 75, 80 (cited as Lawyer's ed., 50, 867).

17. Chapter XXXIII, Vol. II, p. 695.

18. Chapter XXXI, Vol. II, p. 543.

19. See Nadelmann, *Foreign and Domestic Creditors in Bankruptcy Proceedings. Remnants of Discrimination?* (1943) 91 U. OF PA. L. REV. 601, 609.

20. See, notably, Carlos Alberto Alcorta, *Régimen internacional de la quiebra* (Argentina, 1924) 14 *Jurisprudencia Argentina* 130, 134, reproduced in 4 VICO, CURSO DE DERECHO INTERNACIONAL PRIVADO (Buenos Aires, 2d ed. 1939) 34.

21. Vol. II, pp. 587 and 963.

case under the old treaty. One may expect more on this subject, which is of paramount interest to American creditors,[22] in the volume of the author's "Treatise on Private International Law" which will cover bankruptcy.

Dr. Romero del Prado's "Handbook" should have a place in every law library, not only as an authoritative textbook on the Argentine private international law, but also as a valuable general treatise in the field. The presentation of the book is excellent, but its practical usefulness would be enhanced if an alphabetical subject index were added.

Kurt H. Nadelmann †

---

22. *Cf.* Nadelmann, *Principales Problemas del Derecho Internacional de Quiebras* in 2 MEMORIA DE LA TERCERA CONFERENCIA DE LA FEDERACIÓN INTERAMERICANA DE ABOGADOS (Mexico, 1945) 211; *idem., Legal Treatment of Foreign and Domestic Creditors* (1946) 11 LAW & CONTEMP. PROB. 696, 701.

† Lecturer in Comparative Law, University of Pennsylvania.

BOOKS RECEIVED

CASES AND MATERIALS ON JUDICIAL ADMINISTRATION. By Maynard E. Pirsig. West Publishing Co., St. Paul, Minnesota. 1946.

CASES ON CONSTITUTIONAL LAW. By Noel T. Dowling. Foundation Press, Chicago. 1946. $7.50.

CONGRESS AT THE CROSSROADS. By George B. Galloway. Thomas Y. Crowell Company, New York. 1946. $3.50.

DESIGN OF DEMOCRACY. By George Washington Goble. University of Oklahoma Press, Norman, Oklahoma. 1946. $2.75.

ORPHANS' COURT PRACTICE IN PENNSYLVANIA. By Raymond M. Remick. George T. Bisel Company, Philadelphia. 2 vol. 1946. $20.00.

REVISTA DE LA ESCUELA NACIONAL DE JURISPRUDENCIA. Tomo VIII, Julio-Septembre De 1946. Num. 31.

SIXTEENTH REPORT OF THE PERMANENT COURT OF INTERNATIONAL JUSTICE. A. W. Sijthoff's Publishing Company, Leyden. (1946.)

THERE IS NO MYSTERY ABOUT PATENTS. By William R. Ballard. J. M. Barret Corporation, New York. 1946. $2.00.