BOOK REVIEWS


The subtitle of Gregory Alexander’s long book laconically summarises his principal thesis. Alexander contends that two main conceptions of property have been operative in American legal thought. Each of those conceptions appears throughout the history of the United States in multifarious forms, but each of them centres on a cluster of distinctive themes. In the liberal-capitalist understanding of property, privately owned resources are perceived as the means of creating or enhancing individual wealth through participation in market transactions. In the civic-republican understanding of property, by contrast, privately owned resources are perceived as the means of endowing individuals with the autonomy and security which they need in order to pursue the public good. Under the first approach, the various resources within private ownership are seen essentially as commodities; under the second approach, those resources are seen essentially as the underpinnings of public propriety.

Anyone familiar with the past few decades of historical inquiries into the attitudes and assumptions of American political thinkers will not be greatly surprised by the general outlines of Alexander’s thesis. The salience of liberalism and liberal conceptions of property in American thought has long been acknowledged; during recent decades, moreover, the importance of civic republicanism in the history of the United States has become much more widely recognised through the works of such scholars as Bernard Bailyn, Gordon Wood, and John Pocock (among many others). Hence, no one should be astounded to learn that American jurists’ discussions of property have been marked in some contexts by a liberal-capitalist orientation and in other contexts by a civic-republican orientation—indeed, the tension between the liberal and republican visions, especially in the eighteenth century, has for years been quite a prominent topic of scholarly investigation by American law professors. None the less, for two reasons, Alexander’s project has been worthwhile.

First, some historians of American legal thought (such as Jennifer Nedelsky) have wrongly maintained that the institution of property in the United States has always been understood along liberal-capitalist lines. Alexander is quite right to respond by showing that many variants of an alternative vision of property have coexisted with the liberal-capitalist approach. His researches reveal that attitudes toward property among American jurists have been considerably more complicated and heterogeneous than is granted by the historians who portray a monolithically liberal tradition in the United States. Though Alexander oddly fails to challenge with equal vigour the lop-sidedness of some of the historical accounts that highlight the role of civic republicanism in American legal/political discourse,
his study helps to reveal that such accounts are just as tendentious as the depictions of an unalloyed liberal past. (Pocock is especially vulnerable here. His tiresomely numerous attempts to discount the importance of John Locke in eighteenth-century American political thinking are even more extravagantly one-sided than the views of his most zealous opponents. His unsubstantiated assertions do not become true merely by being put forward over and over.)

Second, although Alexander probes many of the same writings that are investigated by the historians mentioned above, he looks also at the writings of a host of jurists whose ideas about property have received far less attention from scholars who concentrate on political disputation. His survey encompasses political and economic thinkers, but it focuses above all on the men who developed the shifting arrays of legal concepts that prevailed in the United States from the mid-eighteenth century to the late twentieth century. The territory covered by the book is expansive indeed, and some of it has not previously been explored in connection with the liberal/republican debate on which Alexander focuses. Although he follows in the footsteps of legal historians as well as political historians, he manages to uncover some neglected pathways.

*Commodity and Propriety*, then, deserves the attention of anybody interested in the history of American jural thought. Not only the book’s broad contours, but also many of its details, should win the admiration of readers; for instance, the discussion of Robert Hale’s and Morris Cohen’s critiques of the public/private distinction is a fine piece of pithy exposition. Nevertheless, the book suffers from several flaws. To be sure, some of the shortcomings are no more than disputable matters of emphasis. For example, one might have expected that a volume of this sort would peruse the writings and judgments of Oliver Wendell Holmes at considerably greater length than Alexander in fact does. Likewise, one might have expected the book to examine the outlook of Abraham Lincoln, a notable lawyer whose emancipation of the slaves was by far the greatest expropriation of assets in the history of the Republic.

More significant are a few other objectionable features of the volume. Some of these inadequacies are connected with Alexander’s unduly favourable attitude toward Critical Legal Studies (CLS). While citing CLS writings (often in a highly laudatory manner) throughout his book, Alexander commits some of the irritating mistakes that are characteristic of the CLS movement. In the opening pages, for example, we are told that the liberal-capitalist vision of property is based partly on a belief in the “subjectivity of values” (p. 3). One might have hoped that the efforts by Ronald Dworkin and many others to correct the CLS writers on this point would have dissipated those writers’ misconceptions. Unfortunately, the correctives have not yet taken hold. Let it be repeated, then, that neither historically nor logically is there a firm connection between the liberal emphasis on individual self-expression (or self-fulfillment) and any doctrine affirming the subjectivity of values. Perhaps the best antidote to the CLS writers’ errors on this matter is a solid familiarity with the works of Locke or Adam Smith or John Stuart Mill. One awaits the day when the CLS theorists will take the trouble to gain such familiarity.

Even more exasperating are Alexander’s caricatures of Locke. In common with the votaries of CLS, Alexander repeatedly suggests that Locke was the paradigmatic champion of individualistic acquisitiveness. Although he does concede briefly in an endnote that “Locke himself was not always ‘Lockean’”
(p. 391, n. 7), his concession is isolated and in any event is on a highly limited point. Elsewhere in the book, he repeatedly invokes Locke's name as an emblem of the banausic selfishness that is said to animate the liberal-capitalist vision of property. "The possessive conception [of constitutional property rights] captures the core of the classical liberal understanding of property that is often attributed to Locke and that C.B. Macpherson labelled "possessive individualism"" (p. 374). Alexander himself persistently attributes such an outlook to Locke. His wholly uncritical reference to Macpherson is something else which his discussion shares with the writings of many CLS devotees and other American law professors. An invocation of Macpherson's name and an incantation of the words "possessive individualism" are presumed to be a satisfactory way of dealing with Locke. Now, on the one hand, nobody expects most American legal scholars (or their research assistants) to be thoroughly acquainted with the past four decades of the secondary literature on Locke. Yet, on the other hand, one can legitimately expect more from American legal scholars (and their research assistants) than a complete lack of acquaintance with that literature. Macpherson's account of Locke has been frequently and cogently criticised from markedly varying perspectives since the publication of his famous book on possessive individualism nearly 40 years ago. A completely unquestioning reliance on Macpherson—a reliance involving references to his work which suggest that his theses have largely or wholly withstood the test of time—is therefore unacceptable.

Other shortcomings in Commodity and Propriety, most of them minor, could also be adduced here. However, this review will close with a complaint about the publisher rather than about the author. Alexander's book is nearly 500 pages in length, with notes that extend across 84 pages. The book consists of 12 principal chapters (plus some shorter prologues), several of which contain more than 100 notes each. Given the bulkiness of the text, the decision of the University of Chicago Press to shove all the notes to the end of the volume is inexcusable. Both the author and the reader deserve better.

MATTHEW H. KRAMER


Just as a play or painting causes the viewer to learn from it and to be transformed by its re-presentation of life, a comparative account has authority over its readers and makes claims on them. Comparatists who take seriously their assumption of responsibility in the edification of what is being compared were, therefore, distressed to learn that “[m]any [. . .] have argued how similar our laws on tort [. . .] can be made to look with the help of some skilful (and well-meaning) manipulation” ([1997] Eur. R. Priv. L. 520). Unfortunately, Walter van Gerven's name must be added to the constituency of manipulators and his collection of materials to the reservoir of mismappings of the law based on good intentions (no doubt)—the kind of work that may well earn its editor an honorary doctorate from a Saxon university or a prize from the International Academy of Comparative Law. Excerpts from the foreword best tell the story: “This book is the first part of a casebook on Torts in the Casebooks for the Common Law of Europe series, which the authors hope will be used as teaching material in universities
The Cambridge Law Journal [1999]

throughout Europe and elsewhere. The objective of this casebook and of the whole series is to help uncover the common roots of the different legal systems, not to unify them. In other words, to strengthen the common legal heritage of Europe, not to strangle its diversity. The casebook, will comprise eight chapters [...]. The present volume contains the second chapter, which will be the largest by far and which can be seen as the general part of the casebook [...]. [T]he original-language versions of the translated materials in this book can be found on our homepage. [...]. Work is currently under way on the other casebooks of the series, on Contracts, Judicial Review of Administrative Action and Corporations”.

The book under review suffers from major flaws which disqualify it as a sound pedagogical tool. Specifically, it is wrong to state, without any supporting historical evidence, that the laws of the various European jurisdictions share “common roots” that can be “uncovered”. In fact, the work of J.H. Baker, H. Brunner, R.C. van Caenegem, N.F. Cantor, P. Goodrich, C.J. Hamson, R.H. Helmholtz, W.S. Holdsworth, D. Ibbetson, D.R. Kelley, J.M. Kelly, F.W. Maitland, J.H. Merryman, W.T. Murphy, B.Nicholas, J.G.A. Pocock, F. Pollock, G. Samuel, A.W.B. Simpson, P. Stein, T. Weir, and F. Wieacker, as I read it, suggests otherwise. Should the arguments of these authors not be rebutted before the editor of Torts brazenly refers to “the ius commune which previously existed” (p. 10)? Even more importantly, the editor assumes that raw solutions exhaust what the reality of a legal culture involves. Accordingly, the book is largely reduced to a series of brief extracts from judicial decisions and, occasionally, legislative texts—the legal equivalent of a guide to car mechanics. Clearly, for the editor, to know Italian law is to know the relevant provision of the Codice civile and whatever answer the Corte di cassazione gave to whatever question arose before it. It is precisely such reductionism which the comparatist must avoid. Any redaction of an account that will not prove unduly distortive of the law being considered must attend to recurrently emergent, relatively stable, institutionally reinforced practices and discursive modalities (a certain lexicon, a certain range of intellectual or rhetorical themes, a certain set of logical or conceptual moves, a certain emotional register, and so forth) acquired by the members of a community through social interaction and experienced by them as generalised tendencies and educated expectations congruent with their conception of justice. The comparatist must, in other words, re-present a legal culture in ways which have greater hermeneutic power than is offered by the traditional rule-based model. To allow comparative legal studies to continue to be hoodwinked by the simplism of rules and the romanticisation of the pathological that comes from the undue insistence on judicial decisions is dangerous for it promotes an illusion of knowledge about the law. The hard fact is that a mere accumulation of rules and cases—no matter how quantitatively impressive—hardly tells us anything of significance about a foreign experience of law.

But Torts raises other difficulties. The treatment of civil law in the casebook format does not properly allow for the opportunity of a thick or deep understanding of civil law as civil law—an observation already made by H.C. Gutteridge. For instance, Torts’ readers are effectively denied the experience of the Germanness of German law. They are made to learn something which is emphatically not German law such as “German tort law”. To suggest, as does Torts, that French law revolves around a series of terse judicial decisions trivialises the specificity of that legal community’s experience and shows how the editor is more interested in his own speculation—the law
of all jurisdictions under consideration is packaged in the same format and in the same language—than in fostering ethical communicative action. A related problem arises from the unrepresentative character of the collection of judicial decisions mentioned in the book: 311 cases for England, France, and Germany, and 65 cases for Austria, Belgium, Denmark, Finland, Greece, Ireland, Italy, the Netherlands, Portugal, and Sweden (in fact, out of these 65 decisions, 36 hail from Belgium and the Netherlands, the two countries where the editor teaches, thus confining the other eight jurisdictions to only 29 cases in all). The reasons for these imbalances may be obvious to the editor, but they are not to me. As all comparatists know, J.H. Merryman argued long ago that Italy is more typical of the civil-law world than France or Germany can ever be. The editor of the book under review clearly disagrees. I think the reader is entitled to know why. Meanwhile, the suggestion that the book addresses the laws of “Europe” is tantamount to a misrepresentation.

There is a growing number of snippety compilations being released that, like Torts, are epistemologically unsound. They are called anything from “Principles of European Contract Law” to “Fundamentals of European Civil Law” to “European Contract Law”, to “Principles of International Commercial Contracts” to “Gemeineuropaisches Delikstrech”. These epitomes all desert serious thought for earnest prostration before the instrumentalist sabotage of cognition. They all make the same basic assumption: that if you show how two or three jurisdictions answer “yes” to the question whether on a given set of facts the victim of an accident in a neighbour’s flat can recover damages from the landlord, you have actually made a valuable contribution to knowledge and understanding across legal cultures. In effect, all that you have thereby done is to mislead your reader by positing a similarity that only exists superficially as G. Teubner has demonstrated with respect to the concept of bona fides ([1998] M.L.R. 11). What the reader needs to know, for instance, is what bearing the fact that the French judge is French and that the English judge is English will have on the treatment of a case. Clearly, the way in which French and English judges will approach the merits of a dispute between the neighbour’s friend and the landlord will vary. Inevitably, the judge comes to “the problem” as a socialised human being, that is, as a product of his cultural and legal environment. In addition, different evidentiary rules or precepts (themselves reflecting different social and political values developed over the long term) will make for a different construction of the facts in the eyes of the law. In other words, even if the facts are precisely the same, it remains that they will not be the same for each law. Likewise, different judicial drafting techniques will thematise certain dimensions of “the problem” and exclude others. I could continue and discuss the kind of arguments that will be thought plausible in court, the extent to which the prevailing social and economic structures will influence the decision (Teubner considers this matter at length in his paper), and so forth. My point is that commonalities as regards facts and outcomes are secondary as compared to the mentalite that governs the framing of the case, the govern-mentalite that dictates the epistemological framework within which the case is addressed. To ignore all this capital information and to focus instead on selected titbits of black-letter law without any consideration of the historical, social, economic, or cultural environment is to deceive the reader on a massive scale first by intimating to him that the brittle similarities matter more than the traditionary differences (which to anyone who has studied and taught both in the common-law and civil-law worlds is evidently
unconvincing) and second by proposing to him that through the reading of
the titbits in question—in English, if you please—he gets a useful
understanding of foreign law (which he patently does not give—the inevitable
superficiality of the presentation). Contrast the depth of Teubner’s analysis
with the shallowness of Torts’ descriptive notes.

B. Grosfeld writes that comparative legal studies is definitely ill-suited to
clever minds in a hurry (Kernfragen der Rechtsvergleichung, 1996, p. 134). He
is oh so right. The comparatist must accept, rather than attempt to evade,
the necessarily determinative character of cognitive points of departure across
legal traditions. To do otherwise, that is, to relegate the cognitive asymmetries
between the civil-law and common-law worlds to ignorable differences, to the
realm of epiphenomena, shows confusion between the legitimate desire to
overcome barriers of communication across legal traditions and the alleged
need to elucidate presumed similarities. Insensitivity to questions of cultural
heterogeneity fails to do justice to the situated, local properties of knowledge
which are no less powerful because they may remain inchoate and
uninstitutionalised. In the way it refuses to address plurijurality at the deep,
cultural level, the rhetoric of legal convergence simply deprives itself of
intercultural and epistemological validity. Consider the following statement
by the editor of Torts: “English law has followed Roman law longer than the
Continental legal systems by retaining specific heads of tortious liability, each
of which was originally covered by a different writ” (p. 16). The historical
fact of nominate torts in English law has, of course, nothing to do with
“following” Roman law. Here is the kind of irresponsible simplification that
is engendered by a frenetic and hasty search for commonalities—which-clearly-
must-be-there-since-we-want-them-there. Apart from wondering how an
indigenous common-law term came to designate a book devoted both to the
common-law and civil-law traditions (no explanation is offered by the editor),
it remains to inquire, perhaps through psychoanalysis, why the quest for
commonalities bewitches so. This is a crucial question—arguably the crucial
question—but one that need not detain us here.

Pierre Legrand

_Ethical Challenges to Legal Education and Conduct_. Edited by Kim Economides. [Oxford: Hart Publishing Ltd. 1998. xxxiii, 357 and (Index)
8pp. Paperback. £20.00 net. ISBN 1-901362-11-6.]

‘Ethical challenges’ is in a sense the wrong title for this collection of essays.
This is no poser of new or radically reinterpreted problems for the profession
and nor is it a generator of new or radical theory to solve pre-existing
problems. Instead it is a thoughtful contribution to and continuation of the
debate as to the nature and future focus of legal professional ethics.

Compiled for the Legal Education Sub-committee of the Lord
Chancellor’s Advisory Committee on Legal Education and Conduct, it is no
surprise to discover that the book’s overriding concern is the teaching of
legal ethics in the classroom. It contains contributions from some major
names from a wide range of jurisdictions, including Australia, America,
Bazil, Canada, England, Italy and New Zealand and the South Pacific. One
of the disappointments of the book is that the difference in the various legal
systems are not explored more often. Are there, for example, as practitioners
often insist, significant differences between American and English advocacy, let alone Italian practice?

The editor sees the book as shaped by three “challenges” facing the legal profession today. The first is to rediscover and reaffirm the profession’s “moral foundations”. The second is to inculcate these principles into young lawyers. The third is to “make lawyers good”: to promote morally responsible and responsive lawyering. None of these sections is entirely discrete; the second and third sections in particular tend to share topics.

The first section explores a number of alternative understandings of the legal profession’s ethical duties. The object of all contributions is to reject the idea of lawyers as amoral technicians and to assert a wider duty and purpose to act “justly”. The question then becomes what it is to act justly as a lawyer. On this issue the contributions are divided between the two major movements of the day; the attempt to inject some form of personal responsibility into lawyers via virtue ethics and rearguard defences of adherence to more conventional concepts of the lawyer’s role. Either lawyers should take personal responsibility for their professional actions or lawyers act as technicians but in so doing play a morally responsible part in upholding the greater values of the system.

The second section deals specifically with the logistics of legal education. It could be seen as the real heart of the book. Unsurprisingly, almost all of the contributors are firmly in favour of teaching ethics in law schools. Contributors give comprehensive accounts of the history and current status of ethics in law schools and professional organisations’ requirements for ethical qualifications for admission in North and South America and Australasia. A prevailing theme is the wider profession’s lack of interest in or input into teaching ethics and the general scarcity of ethical courses in universities. The authors of these chapters and contributors throughout the book emphasise the gap between ethics as they are taught and as they are experienced in the workplace. The writers emphasise that even when legal ethics are heavily emphasised in the university curriculum, that emphasis will not avail when students become aware of the disinterest of the profession as a whole or when the students’ motivations in entering law are dominated by prestige and earning capacity and lack any real social commitment. Proposals to overcome the divide between theory and practice include requiring students to do practical work in the community and integrating ethics teaching into other courses.

How (and whether) to teach ethics in law schools continues to dominate the third section of the collection. Called “making lawyers good” it might better be described as “and after university”. It contains one discussion of feminist legal ethics, sandwiched between some interesting insights into the dilemma of teaching ethics in a way that will stick once the students get out into practice. The final article covers the professional disciplinary structures in several European jurisdictions.

Generally, this collection fits into the current trend of books seeking ways to accomplish (in the terminology of one contributor) the “re-ethicalisation” of lawyering. The basis of this movement is a belief that the legal profession is in the middle of a crisis of identity and goals, exiled from its old certainties and central position as moral guardians of society. In the words of the editor, “the image and self-image of lawyers risks shattering due to the current sense of crisis, cynicism and ethical bankruptcy”. Virtually every article includes such a sentence.

It is typical of this sort of writing that the nature of this moral crisis is
left pretty much undefined, ascribed vaguely to over-specialisation and the
dominion of large commercial law firms. However, there are problems with
this notion, and its being left indeterminate does not help. I am unsure to
what degree practitioners generally share any sense of crisis. The (litigation)
practitioners I work with display a quite immense level of confidence in the
moral justification for and value of their work. When asked about pressures
from outside most of them tend to reply relaxedly that “swings and
roundabouts” are a natural part of life. Admittedly lawyers are under outside
pressure: the legislatures of many jurisdictions are intervening to remove
some of the licence they have hitherto enjoyed, at least in court. However,
even this needs to be put in context. When it is recognised that criminal
practitioners only began to be allowed to cross-examine in the late eighteenth
century limitations on the right to cross-examine on previous sexual history
look less extreme.

The basis for this movement is debatable. The idea that lawyers were ever
more confident of themselves is questionable. A reading of mid-nineteenth
century legal magazines suggests otherwise, and for a real sense of crisis one
only has to consider how secure lawyers felt during the English interregnum.
No Ally McBeal lawyer-as-popular-icon there. I suggest that the qualms
lawyers are experiencing now have been an ongoing feature of lawyering for
most of the profession’s existence. This may not be a moral crisis but a more
than usually intense period of self-reflection, rethinking and renewal of the
theory of the profession’s role in society. The issues the contributors raise are
real and urgent. The rhetoric of crisis is unnecessary to bolster their claims
to serious consideration.

One criticism is that some contributors appear to draw on various
philosphic schools to support their favoured remedies without perhaps
sufficient examination of the particular philosophy or of the material to
which they are applying it. In particular, there are difficulties with the
assumption that virtue ethics can have any significant bearing on lawyers in
the adversarial system. The raison d’etre of the modern profession is the
ideal of a universal right to representation, not to mention an assumption
that an adversarial presentation of issues expedites fact-finding, both of
which have been seen as necessitating a doctrine of moral independence. No
one in this book has explained how virtue ethics answers that necessity and
can therefore replace independence. Virtue ethics are being applied to
lawyering so commonly nowadays that this issue is becoming pressing. The
contributions of Dare and Rosen both, in different ways, put the case for
conventional adversarial philosophy.

The book highlights the need for further discussion and empirical
research in this area. The excerpts from empirical studies and anecdotes of
students and practitioners are amongst the most important aspects of this
interesting book. They hint at the vital issue of how contradictory is our
profession’s theory of itself and its moral foundations and how easily we
tolerate these contradictions. Our adherence to inconsistent narratives in
literature is another example of this tendency, a point made by Dare who
criticises the overuse of Atticus as an example of a neo-Aristotelian ethic of
lawyering to which we should aspire.

Ethical Challenges will be welcomed by those considering, designing and
teaching courses in legal ethics and to all those more generally concerned
with the development of the moral philosophy and culture of lawyers.

EMILY HENDERSON

What holds the churches of the Anglican communion together? The cynic might say it can only be inertia; the pious that it must be the Holy Ghost. Neither answer seems capable of verification, at any rate immediate verification. The question is not an altogether easy one. The author of this book set out to examine it by investigating the extent to which a common legal tradition has served, and continues to serve, as a unifying force. He examined the constitutions of 31 different churches, most but not all of which are organised along national lines. He went on to inspect the canons that have been adopted in 29 of them. He then looked in more detail at the particular canons of 20 individual dioceses within the 29, and he also cast his eye over the liturgical books used in 16 of the churches and the decisions of the courts in the six countries where they were available. From these sources, he has fashioned a comparative study of the law relating to the central aspects of the canon law: church organisation, ecclesiastical jurisdiction, the ministry of the clergy and the laity, doctrine and worship, the sacraments, marriage and divorce, church property and ecumenism.

What he found in the canons was an absence of formal institutions guaranteeing unity among the churches. At the same time he discovered a widespread respect for what he calls “shared or common principles” (p. 271). In law the churches are autonomous. The Anglican communion has resisted the creation of any central appellate tribunal (p. 92), although the church of the West Indies formally requires all bishops to accord “due honour and deference” to the archbishop of Canterbury (p. 113), and this comports with informal habits elsewhere. The resolutions of the Lambeth Conference, a meeting of bishops from around the world convoked every 10 years by the archbishop, are not binding on individual churches, although they have been influential in fact.

Examples of the “shared or common principles” uncovered in the book may illustrate the author’s findings. Probably the most fundamental is episcopacy and the principle of “hierarchical recourse” it implies (p. 72). Lodging final authority for decisions in bishops is everywhere the norm. Where one bishop errs or fails, the normal path of recourse is to other bishops, usually assembled in a provincial body. Although committees have proliferated, final decisions on important matters (e.g., whom to ordain, p. 129) or less central questions (e.g., additions to parsonages, pp. 316–317) usually rest with the bishops. A second recurring theme uncovered by the author is the room that has been made for the laity in making decisions. An example comes from the choice of bishops. Except in England, the choice seems everywhere to be made by an election in the first instance, and the laity take part in the process. So is the ancient principle that bishops should be elected per clerum et populum vindicated in a modern setting. Third, there are common institutions, most of them inherited from the past but retained in sometimes vastly changed circumstances. Organisation of churches into separate provinces, the office of archdeacon, and parochial churchwardens are familiar examples. Most such institutions, one suspects, would not exist without the pull of history, but they serve to promote unity none the less. Finally, there is what the author calls “liturgical jurisprudence”. Most churches of the Anglican communion at one point or another adopted the Book of Common Prayer 1662. This common heritage has made it possible
for visitors to feel at home attending church services in many parts of the world. Only today has acceptance of widespread liturgical experimentation caused something of a breakdown in this harmonising force.

Theologians and historians may think that the book gives insufficient weight to their disciplines in understanding the law of the church. For instance, the question of the propriety of re-baptism and conditional baptism is treated without reference either to its theological implications or to its long history in the Western church (pp. 254–255). The author has stuck with the modern canons. How strictly these canons are actually enforced in the daily life of the church is also not a question that recurs in his investigation. Here, however, he is surely on firm ground. Disjunction between the written law and daily practice has been a feature of church life for as long as the church has had laws. The canon law exists in large measure to give direction and guidance to those who seek to know how to conduct their lives. For this purpose, an excursion into what happens in fact, though of interest to many and of importance to those who skate close to the edges of the law, is strictly speaking quite irrelevant. On this account—as well as on several others—the author of this pioneering work deserves thanks and congratulations.

R.H. Helmholz


While many with an interest in the protection of human rights are aware of the gross human rights violations that occurred in central and South America in the 1970s and 1980s, few are fully cognisant of the regional human rights mechanisms available to confront these violations. This book rightly aims to remedy this situation by stimulating a greater interest in the Inter-American system for the protection of human rights and its publication is a welcome addition to the growing literature on international and comparative human rights law.

Since the late 1970s, the Organization of American States (OAS), through the Inter-American Commission on Human Rights, and later the Inter-American Court, has tried to respond effectively to some of the world’s most brutal violations of human rights, including the widespread torture of suspected opponents and the vicious phenomena of the “disappeared person”, while similar institutions within the Council of Europe dealt with claims concerning the right to respect for private life, the right to a fair trial, and the right to marry or divorce. Sadly however, in the Europe of the 1990s, the Inter-American experience is gaining greater comparative relevance, particularly in light of the gross human rights violations that have occurred in Turkey and the former Yugoslavia. Meanwhile, with the transition to democratic rule underway, the Inter-American institutions have had to face new human rights challenges, deciding on the validity of amnesties granted to former dictators and exploring the link between poverty and the viability of human rights protections. While its jurisprudence may not be as broad as that under the European Convention on Human Rights, the Inter-American system has set some important precedents in international law and its
potential for setting future precedents makes this publication of interest to all international human rights lawyers.

Skilfully edited by David Harris and Stephen Livingstone of the University of Nottingham Human Rights Law Centre, *The Inter-American System of Human Rights* brings together many of the leading commentators on human rights in the Americas to produce a text of 14 well-written and well researched chapters on the role, jurisprudence, achievements and weakness of the Inter-American human rights system. These chapters, carefully linked to produce a coherent whole, provide an informative guide to the substantive rights in both the *American Declaration of the Rights and Duties of Man* (1948) and the *American Convention on Human Rights* (1969), as well as providing various insights into the work and functions of the Inter-American Commission, the Inter-American Court and the political organs of the OAS. Attention is also paid to the Commission's innovative use of country reports and on-site observations as well as to the Court's unusual reliance on its advisory rather than contentious jurisdiction. The authors also consider the Inter-American contributions to international human rights law generally, such as the case law on state responsibility in disappearance cases, while at the same time recognising in the final chapters of the book the need for certain improvements and reforms. Current legal problems are also carefully analysed, including the difficult but topical issue of amnesties, the recognition of economic, social and cultural rights, and the rights of indigenous peoples. Comparisons, where appropriate, are made with the relevant UN, European and ILO Conventions, thereby enhancing the overall quality and utility of this publication as an educational resource and a valuable research tool.

The value of this work is further enhanced by the editors' decision to include in the appendices the relevant Inter-American treaties (including the often-overlooked *American Declaration* which provides the basis for adjudicating claims against the United States, and now Canada, within the OAS system); the statutes, regulations and rules of procedure for the Commission and Court, as well as a useful list of the Commission's annual and country reports, the Court's decisions and a list of treaty ratifications (although here the ratifications relevant to the *American Declaration* were inexplicably omitted). This reviewer also appreciated the editors' practice of including additional case citations for decisions which have been subsequently cited in a more accessible report series, such as *International Legal Materials*, *Human Rights Law Journal* or the *International Human Rights Reports*, rather than solely relying on the series of confusing and often inaccessible document numbers.

The only suggestion for improvement would have been to include a reference in either the select bibliography or the appendices to the relevant website addresses since Inter-American materials can be difficult to obtain. For those interested, the main website for the OAS is at http://www.oas.org while the Court's English language website can be found at http://corteidh-oea.nu.or.cr/CI/HOME.HTM. One should also check the University of Minnesota's human rights library website at http://www.umn.edu/humanrts/iachr/iachr/iachr.html, where a particularly useful index to the Commission's jurisprudence can be found at www.umn.edu/humanrts/cases/cmmissn.htm.

Apart from this minor omission, *The Inter-American System of Human Rights* can be whole-heartedly recommended as a valuable addition to any library on international and comparative human rights law. An up-to-date, well-documented and authoritative work on the Inter-American human rights
system was badly needed before now. Given its quality and coverage, *The Inter-American System of Human Rights* will surely become required reading for all human rights practitioners and scholars wanting a comparative perspective.

**Joanna Harrington**


The English child support legislation and the tribulations of the ill-fated Child Support Agency have already been the subject of extensive academic and public criticism. What makes this book different is that it claims to offer a new dimension based on empirical research which explores the perceptions of the system from the different angles of the various players. These include absent and caring parents, their legal advisers, the independent Child Support Appeal Tribunal and, last but not least, the staﬀ of the CSA itself. For these purposes the authors were granted privileged access to the Agency’s case ﬁles and staﬀ, conducted interviews with a sample of parents and attended a number of hearings before the Tribunal. The central ﬁnding is of “a catastrophic administrative failure leading to the abandonment of the basic tenets of administrative justice” and the primary cause of this disaster is identiﬁed as “the failure of those drafting the Child Support Act 1991 to appreciate the impact of [the new system] upon the rest of our hugely complex beneﬁt structure, and their failure to grasp that the problems of inadequate disclosure and ineﬀective enforcement— with which courts had grappled for decades—could not be tackled successfully by a distant bureaucracy”.

The ﬁrst chapter deals with the conception of the new scheme and the parliamentary background. This is followed in chapter 2 by an exceptionally helpful stage by stage explanation of the statutory formula. Key defects in the formula are identiﬁed as its failure to reﬂect the true cost of child care and its rigidity in the face of the diverse family arrangements which now exist. Chapter 3 focuses on the speciﬁc relationship between child support and social security in the context of the lone parent family and this is followed by chapters presenting the research ﬁndings resulting from interviews with staﬀ of the CSA (chapter 4) and with parents (chapter 5). Perhaps the most striking ﬁnding which emerges from all of this is the very diﬀerent and often contradictory perceptions of the eﬀectiveness of the system held by the CSA staﬀ, absent and caring parents respectively. In chapter 6 there is a discussion of the mechanisms for review set up under the legislation. The main problem is seen to be the fragmented nature of decision-making “in which every decision is taken in isolation from every other one” and in the lack of any discretionary power in the CSA, comparable to that enjoyed previously by the courts, to consolidate assessment decisions. Chapter 7 records the ﬁndings in relation to the practice before the Child Support Appeal Tribunal. The author’s argument for greater accountability in the adjudication process, by requiring the attendance at the Tribunal of the adjudication oﬃcer who made the original decision, will strike a chord with anyone who has experience of the functioning of tribunals. Chapter 8
examines the more traditional role of lawyers and the courts and is one of the strongest chapters in the book. The discussion of “justice” versus “welfare” as the proper basis for resolving property and financial issues on divorce, of which child support is but one component, is particularly worthy of attention. Chapter 9, which is entitled “Relationships and Negotiations” looks, inter alia, at the alleged link between the issue of contact and the payment of child support. It is here that one could have wished to see rather more recognition of the positive consideration of encouraging the exercise of continuing parental responsibility by “absent” parents. The payment of child support, on one view, is part and parcel of this.

In chapter 10 the authors present their general conclusions and raise a number of key policy questions. Two perhaps stand out as being of central importance to the ongoing debate about the costs of raising children. The first is what exactly is the right balance between public and private resources or more specifically “whether we should expect separated parents to give priority to maintaining the children of earlier relationships or whether we concede an element of state subsidy for serial relationships and serial parenting”. That the Child Support Act 1991 represented a major shift, at least theoretically, from public to private obligations cannot be doubted but it is the philosophical and policy basis for this shift which is open to argument. The second concerns the living costs associated with “caring” parents and children. How do we resolve the conundrum that child support needs to be, at least conceptually, distinct from spousal or adult support but cannot in the real world be so regarded when it is in the hands of the recipient parent? The painful truth is that however willing the “absent” parent might be to support the children, and however unwilling to support the former partner, the living costs of the children and the adult carer are necessarily inextricably linked.

These are deep philosophical questions and unsurprisingly we do not find the answers here. Indeed it may well be that there are no satisfactory answers to them. The authors argue tentatively for radical reform along Australian lines which would base liability for child support on a prescribed percentage of the absent parent’s income and would be related to the number of dependent children. It looks as if the Labour Government favours such a reform and it might therefore be thought that this critique of a now discredited scheme is somewhat dated. Yet, in truth, the fundamental issues of principle and policy will remain the subject of controversy and debate and there is no question that this study is a most useful contribution to the argument.

ANDREW BAINHAM


The 15 contributions to this volume investigate a range of important contemporary issues concerning health care law and practice whilst intersecting with some of the major theoretical debates in bioethics and feminist legal theory. There is a diversity of subject matter as well as approach, with significant contributions from Noel Whitty on resource
allocation, Johnathan Montgomery on professional regulation, Therese Murphy on confidentiality, Eileen Fegan and Philip Fennell on mental health law and Derek Morgan on reproductive technologies. As expected in a collection on health care law, however, autonomy and its derivatives—consent, bodily integrity and self-determination—are the dominant pre-occupations. There is a correspondingly rich diversity of approaches to autonomy, some of which will seem quite counter-intuitive to seasoned feminist readers.

A number of contributors explore the implications of Carol Gilligan’s work on the moral reasoning of men and women in an effort to develop a jurisprudence of care in health care law. In general terms, these contributors challenge the liberal model of autonomy which constructs an isolated self who values separation and who fears bodily invasion, in favour of a relational concept of autonomy which recognises that selves exist in connection with others. Jo Bridgeman argues that an “ethic of care” provides a more convincing explanation for overriding the treatment refusals of older children than the current autonomy-based justifications of incapacity or paternalistic intervention can provide. By locating children, their parents and their health-care providers in a network of relationships, she attempts to demonstrate that it is the values of responsibility and care, rather than concerns to adhere to universalistic notions of justice and rights, that dominate the reasoning of judges and doctors who discount these treatment refusals.

Celia Wells exhibits a deep ambivalence toward the autonomy/paternalism binary approach and, consequently, argues for a more nuanced approach to treatment refusals. She locates women who refuse caesarean sections within a matrix of structures that shape and constrain their decision-making as a basis for questioning the “autonomous” nature of their refusals. Wells also turns the relational spotlight on to the pregnant body to underscore its uniqueness. Her analysis leads her to challenge the assumptions that pregnant women reject “m/paternalistic” intervention and that foetuses have no legal status, placing her at odds with the weight of feminist legal scholarship on this issue. With similar reservations about formulaic understandings of autonomy, Hazel Biggs problematises attempts to reform the law with respect to euthanasia by claiming that these reforms may be perilous to women as a class. Her concern is that women’s socially endorsed roles as carers for the dying, and their vulnerability to being abandoned in the dying process, may mitigate against their abilities to refuse euthanasia.

These contributors make some compelling arguments for re-conceiving autonomy, but a number of critical questions remain unanswered. Whilst Bridgeman’s emphasis is on relationships of care that support individuals, Wells’ and Biggs’ emphases are on relationships that undermine them. We might, therefore, ask how a “jurisprudence of care” will distinguish between beneficent attempts to care for women, and patriarchal attempts to exert control over them. We might also ask who gets to determine what constitutes “care” and in relation to whom? And we might further ponder how sex, gender, race, ethnicity and sexuality based distinctions might play out in these definitional struggles?

Katherine de Gama pointedly exposes the dangers that she sees lurking within the relational model of autonomy. Revisiting the pregnant body, she considers the practice of artificially ventilating brain-dead women for the express purpose of incubating foetuses. This practice has been in part justified on the grounds of “relationship”, typically between the doctor, or the putative father, and the foetus. She is conscious of the limitations of liberal notions of autonomy, but strategically articulates her opposition to these
practices in the language of respect for dignity, bodily integrity and self-determination. De Gama is not convinced that a jurisprudence of care can be safely distinguished from paternalism and issues a challenge to those who would abandon autonomy by asking the question “how and by whom are our relationships to be constructed and, then, privileged?”

De Gama's concerns raise further questions about the role of medical power in constructing bodies and relationships. These questions are taken up by Sally Sheldon and Michael Thomson in their respective contributions on “Rethinking the Bolam Test” and “Rewriting the Doctor”. Sheldon locates Bolam in the context of gendered power relations to expose some of the assumptions and practices that shape law's approach to medical malpractice—judicial deference to medical knowledge and authority, the belief that doctors are motivated by altruism, and a marked reluctance to tarnish the reputation of doctors. Her exposition of these assumptions works to uncloak medical power and its gendered effects and, in doing so, offers a compelling explanation for the judicial conflation of accepted and acceptable medical practice as entrenched by the Bolam test.

Peggy Foster and Marie Fox, in the contexts of screening programs and clinical research respectively, explore the manner in which medical power can shape our perceptions of what constitutes “care” and “benefit”, and they urge against an uncritical acceptance of medical claims made on these bases. Fox, for example, complicates the notion of “benefit” in clinical research by pointing to the inglorious history of exploitation of vulnerable populations and to the exclusion of women from clinical trials both as subjects and investigators. She understands the allure of clinical research for women but she is circumspect. The way forward, she argues, is to frame a feminist science that “eschews foundations in violence and competition” and which treats research bodies as subjects rather than objects.

The insights offered by de Gama, Sheldon, Thomson, Foster, Fox and others may give one pause about embracing a relational model of autonomy. But Carl Stychin offers a refinement of the model that could take account of at least some of the concerns of its critics. Stychin attempts to develop a concept of self-ownership that does not rely on “property rights” in the body. He argues that a property-based conception will not secure self-ownership for all subjects because this strategy assimilates, rather than challenges, the mind/body dualism that discursively constructs the body as an object of knowledge, as “other” to reason and as irretrievably feminine. Stychin's hope is that by displacing the autonomous liberal self with the embodied legal subject, the multiplicities of our corporeal existences will be captured, and the interdependencies between bodies, groups and cultures will be revealed. Stychin argues for a re-conception of autonomy that would account for the connectivity of bodies. But importantly, his attention to questions of power enables him to plot a fuller account of how a relational concept of autonomy might incorporate a feminist vision of self-determination.

This is a critical task. The insight that autonomy is developed and expressed through connection with others is valuable, and undoubtedly reflects a truth of sorts. But given that women have been historically and culturally determined by their relationships and, as Carol Smart has claimed, that women's health continues to be “constructed as so central to the health of others” (Feminism and the Power of Law, at p. 99), the caution sounded by de Gama and others is warranted. If the “jurisprudence of care” is to be
more than sophistry, a coherent vision of self-determination and the minimum conditions of autonomy require further elaboration. This collection represents an impressive contribution to the debate and is highly commended to all scholars of health care law and feminist legal theory.

Krisitin Savell


This is a significant collaboration undertaken by a team of experienced practitioners from Bird & Bird, looking into the ramifications of the Copyrights in Databases Regulations 1997. These Regulations, which came into force on 1 January 1998, implement the Directive on the Legal Protection of Databases (96/9/EC, 11 March 1996). Significantly for British copyright law, the Regulations and Directive introduce a formidable, if unpredictable, sui generis “database right” for the protection of database content that is the outcome of substantial investment against unlawful extraction and re-utilisation. These measures have also to some extent revised the parameters of copyright protection in respect of skilful selections and arrangements (otherwise known by skilled database designers as the “schema”) of such content, primarily through the systematic re-orientation of what counts as a “database”, and the requirement of an “author’s intellectual creation” (s. 3(2) Copyright Designs and Patents Act 1988) as the base criterion in the assessment of originality for the specific purpose of database copyright (as opposed to the “skill and labour” criterion for all other works, except possibly computer programs).

The authors have endeavoured, rather successfully, to offer a template of the old as a basis for judging the new. The construction and assessment of the impact brought by the Regulations to the British Copyright Act are treated in four broad parts, beginning with a historical background leading to the adoption of the Directive, a discussion of the specifics and anomalies of British implementation, coverage of database protection within regimes of licensing, enforcement, competition law and international treaties, ending with a good explanatory account of the all-important transitional provisions contained in the latest measures.

The work endeavours to clarify and buttress certain perceived norms of copyright. For example, it criticises the long-thought copyright distinction between “ideas” and “expression”, in preference for an approach which decides, on an incremental basis, whether a given elaboration or aggregation of information or ideas which is alleged to have been copied constitutes such a substantial part of the copyrighted collection as a whole. At the same time, the authors correctly question whether English courts may in future have to adopt, like their US counterparts, limiting doctrines such as “merger” (which rules against copyright subsistence if a certain product can only be expressed in one or a limited number of ways) or some other rule of construction if copyright is “misused” to provide an illegitimate restraint on the use of information. A more challenging feature of the new regime of database regulation lies in the interaction and overlap between database and software protection. The latter is governed by a different directive within the larger acquis communautaire, and although computer programs used in the making
or operation of databases accessible by electronic means are excluded from protection under the Directive, recital 20 states that protection under the Directive may also apply to the materials necessary for the operation or consultation of certain databases such as thesaurus and indexation systems. Depending on what is meant by a “computer program”, the authors correctly comment that in certain circumstances a computer program can be included within the definition of a database, but offer no further elaboration. Where the two regimes elide, the lines of protection will become less than clear. For example, if improperly construed, there is a risk that the new database right may extend to protect software specifications or particular “hackneyed” elements of a desktop user interface which are otherwise unprotected by copyright.

Turning to the substantive issue of implementation itself, whilst the work offers a concise account of the extent of the obligation of member states to implement Directives, and the consequences and remedies thereof, the authors do not directly offer an opinion as to whether the Regulations correctly implement the terms of the Database Directive. They state that there is no Community obligation on the United Kingdom to change its criterion of originality for literary works other than databases, viewing this as a matter for primary legislation. This may not be a matter for controversy, even if the same the originality criterion is found in the Software Directive, which was adopted in 1991 but not implemented into British legislation. However, the retention by the Regulations of “compilation” copyright results in a three-tier regime of database protection which may be viewed as over-protective and go further than the terms of the Directive itself. On the old law, a clear exposition is offered on “compilation” copyright, which as a sub-classification of literary works protection, is not without limitation in its coverage of subject matter. The authors set out a comprehensive flow-chart of the present law (as of 1 January 1998) in Appendix 10.

Notably absent is a substantial discussion of information technology issues and the protection of multi-media digital works. The Commission in their preparation of the Directive set great store by the encapsulation, through an extended definition of “database”, of collections of digital works which otherwise evade traditional classification when a copyright analysis is performed. A limited discussion is devoted to the question of whether collections of written digital representations of works, data or other materials which are not literary works qualify as “compilations” under the old law.

The authors have to be commended for traversing many different subjects of importance to the practitioner. The practical utility of the work is particularly reflected by its chapters on licensing and competition law, the latter also covering all the relevant UK legislation, including the Competition Bill (now passed). With all the relevant legislation and treaties contained in its appendices, this work forms a useful resource for students and practitioners alike.

Stanley Lai
These are heady days to be interested in private international law and more so in international intellectual property. The English and Dutch courts appear to be at loggerheads over cross-border IP infringement claims and the European Court of Justice has been called in to separate them and lay down some workable ground rules. Against this backdrop the Oxford Monographs in Private International Law series has united Professors Fawcett and Torremans, eminent jurists in their own fields, to produce Intellectual Property and Private International Law. The advertising that accompanied its publication described it as “the first comprehensive and systematic treatment” of IP and private international law. If this is true, then it was only achieved by a matter of weeks or days. Christopher Wadlow, a practitioner in the City, recently published Enforcement of Intellectual Property in European and International Law. His book clearly also comes within that rubric. However, the two are different in approach and contrasts will be noted in this review.

Pursuing such topical subject matter can be likened to attempting to hit a moving target. Fawcett and Torremans stated the law as at 31 December 1997 and Wadlow as at 1 January 1998 which has allowed them to refer to the recent decision of the Court of Appeal in Fort Dodge Animal Health Limited v. Akzo Noble NV ([1998] F.S.R. 222). However, that decision was not handed down until late October 1997 and the authors cannot have had sufficient time to give the decision the consideration it deserves. This is reflected throughout both books in areas such as jurisdiction in relation to the infringement of foreign intellectual property rights and the impact of international conventions thereon, the ability to join different parties and claims under different laws (Article 6(1) of the Brussels and Lugano Conventions), the implications of an allegation of invalidity of a registrable right (Articles 16(4) and 19), and provisional relief in aid of a foreign infringement action (Article 24), issues on which the court in Fort Dodge had much to say. Moreover, there have already been a number of subsequent decisions of both the English and Dutch courts on these and related issues which the authors were not able to refer to. In Expandable Grafts v. Boston Scientific (April 1998) The Hague Court of Appeal restricted the Dutch practice of granting cross-border injunctions on the basis of Article 6(1) in infringement cases. The court restricted it in a manner similar to that adopted in Fort Dodge (an approach criticised by the authors). This judgment appears to have been undermined in some lower court decisions in The Hague (e.g. Augustine Medical v. Mallinckrodt (The Hague District Court, 15 July 1998)), however it stands as a serious amelioration of the Dutch position as it was at the time of Fort Dodge. More recently both the Court of Appeal, and Laddie J. (Pearce v. Ove Arup Partnership Limited (unreported, 21 January 1999) and Sepracor Inc. v. Hoechst Marion Roussel Limited (unreported, 21 January 1999), respectively), have provided valuable insights on a number of the issues discussed in Fort Dodge.

Fawcett and Torremans’ book consists of three sections—jurisdiction, applicable law and recognition and enforcement of judgments. The first two
address each of the issues that could arise in contentious and non-contentious international IP cases. Jurisdiction is related to the creation and validity of IP rights, entitlement to the grant and ownership of IP rights, contracts in relation to the exploitation of IP rights, and infringement under the Conventions and the traditional English rules. European Community rights and complementary torts such as passing off are also considered in these contexts. The choice of law process is applied to IP Conventions; the creation, scope and termination of IP rights; contracts in relation to the exploitation of IP rights; infringement and complementary torts. These two sections explore their subject matter in detail and generally do not fail to address the more difficult issues that arise. When discussing jurisdiction under Article 5(3) of the Conventions and infringements over the Internet the authors do not pepper their work with glib references to "cyber jurisdiction". Rather, they identify as the two potential locations of infringement the places of up-loading and down-loading and plump for the place of up-loading while recognising that this could allow for "cyber pirates" to set up shop in countries having lax IP regimes. One notable failure is in their discussion of Article 6(1). In Fort Dodge the court decided that Article 6(1) does not allow for the joinder of actions with respect to different countries' identical IP rights. The authors favour the opposite view, however they do not cogently criticise the Fort Dodge decision. In Fort Dodge the court failed to reflect the structure of the Conventions and the objectives of Article 6(1) as pronounced in the European Court of Justice's decisions: see, for example, Kalfelis v. Schröder case C-189/87 [1988] E.C.R. 5566 and Sarrio v. Kuwait Investment Authority [1999] A.C. 32. Article 6(1) is not limited to situations in which mutually exclusive legal consequences may result. It is intended to avoid contradictory decisions within the Convention States even when separate enforcement of them is not precluded. The authors provide a bare expression of their opinion and leave it to the ECJ to critique the Fort Dodge decision. This approach is flawed. As this reviewer has discussed elsewhere, the wheels of the ECJ turn very slowly and, if the Fort Dodge reference ever gets there, it should not have jurisdiction to rule on this particular question anyway. Wadlow does not attempt to apply the principles of jurisdiction to the Internet, and in his discussion of Article 6(1) he makes little effort to resolve the controversy regarding its interpretation in an IP context. His book is structured around discrete matters that arise in IP: chapters deal with infringement actions, enforcement of foreign IP rights, IP contracts, and foreign judgments and proceedings. Prima facie this structure is more practitioner-friendly. However, it results in Wadlow repeatedly dealing with one issue in a number of different places in the book. These multiple treatments vary in their level of detail with the result that the patient reader has to flip around the book to ascertain Wadlow's definitive view on a number of difficult issues.

The only criticism on form that this reviewer can make of the Fawcett and Torremans book, and it is a mild one at that, is that section III—the recognition and enforcement of foreign judgments—began with the part dealing with declining jurisdiction and restraining foreign proceedings, do not enjoy the IP focus that permeates the rest of the book. However, these pages do provide a useful introduction to those areas to readers lacking the time to approach the text on all aspects of private international law that Fawcett co-authors with North. Wadlow's book deals at great length with the general principles covered in all private international law texts. Fawcett and Torremans' book re-emphasises the parasitic nature of private
international law and the need for an international lawyer to be able to
digest disparate areas of substantive law and apply the principles of
international law to them. Fawcett is clearly such a lawyer. The book appeals
to both academic and practising lawyers and is littered with interesting
suggestions for the reform of the rules of jurisdiction and choice of law in
an IP context. It can only be forlornly hoped that the Law Commission and
Parliament become aware of the authors' useful contributions. Wadlow's
book is a much weightier tome and is more a vehicle for the author to
provide an overworked analysis of the law rather than a useful text. It will,
nevertheless, be of interest to those wading very deeply into the waters of
private international law and IP.

STUART DUTSON