

LETTER TO THE EDITOR

Dear Sir,

In a note on the Matrimonial Causes Act 1945-1955 in the *Sydney Law Review* of January 1957, Mr. Howard considers the extent to which divorces granted under Part IIIA of the Act will be recognised in other countries of the British Commonwealth. Applying *Travers v. Holley*¹ and *Dunne v. Saban* (formerly *Dunne*) he concludes that as far as New Zealand is concerned, divorces granted under Part IIIA will be recognised only if the wife, in addition to the three years' residence within the jurisdiction required by the Australian legislation, intends to live there permanently and is living apart from her husband.

I would point out that in New Zealand the common law as to the recognition of overseas divorces was replaced in 1953 by a statutory code which gets right away from the doctrine of reciprocity as expounded in *Travers v. Holley*. Section 12A of the Divorce and Matrimonial Causes Act 1928 as inserted by section 10 of the Divorce and Matrimonial Causes Amendment Act 1953 provides that any overseas decree of divorce is to be recognised as valid if the Court making it exercises jurisdiction on the basis of the domicile of either party in the country concerned or on the basis of the wife's residence in that country for a continuous period of not less than 2 years. The section goes on to enact the effect of the decision in *Armitage v. Attorney-General*.

Considered as a code, 12A is admittedly not as wide as it perhaps might be. For instance divorces granted on the basis of the residence of the husband are not recognised, although this basis of jurisdiction appears to exist in Western Australia, nor are divorces granted in European countries on the basis of nationality recognised. It is to be hoped that Parliament will cure these defects in the not too distant future.

It does seem clear, however, that any divorce granted by an Australian court pursuant to Part IIIA of the Matrimonial Causes Act 1945-1955 will be recognised in New Zealand, notwithstanding the fact that domicile is still the sole basis of divorce jurisdiction in New Zealand.

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¹ Also n. 1 from p. 634.

BOOKS RECEIVED

Notice in this list neither assures nor precludes later review

- Avins, *The Law of AWOL*. New York, Oceana Publications, 1957. pp. xxxi, 288. Index.
- Baxter, *The Development of the Treasury, 1660-1702*, London, Longmans, Green, 1957. pp. x, 301. Biblio. and Index. £3/8/- (Aust.).
- Cowen, *Bilateral Studies in Private International Law* (A. Nussbaum, ed.) No. 8, American-Australian Private International Law. Publ. for Parker School of Foreign and Comparative Law, Columbia University, by Oceana Publications, 1957. pp. 106. Index. \$3.50.
- Donaldson, *Some Comparative Aspects of Irish Law*. London, Cambridge U.P. as agents for Duke U.P., 1957. pp. xiii, 293. Biblio. and Index. £2/5/- stg.
- Ebb (ed.), *Public Law Problems in India*. Stanford, Stanford University Law School International Legal Studies Programme, 1957. pp. xi, 194. \$2.50.
- Harvey, *The Advocate's Devil*. London, Stevens, 1958. pp. vi, 166. 12/6 stg.
- Johnson, *Family Law*. London, Sweet & Maxwell, 1958. pp. xl, 325. Index. £1/15/- stg.
- Kiralfy, *A Source Book of English Law*. London, Sweet & Maxwell, 1957. pp. xx, 445. Index. £2/10/- stg.
- Lincoln, *No Moaning of the Bar*. London, Geoffrey Bles, 1957. pp. 153. 11/6 stg.
- MacDermott, *Protection from Power under English Law*. London, Stevens, 1957. pp. viii, 196. 16/6 stg.
- Milne (ed.), *Bureaucracy in New Zealand*. Wellington, N.Z. Inst. of Public Administration, London, Oxford U.P., 1957. pp. 137. Index.
- Rhyné, *Municipal Law*. Washington, D.C., National Institute of Municipal Law Officers, 1957. pp. xxi, 1125. Index.
- Ruoff, *An Englishman Looks at the Torrens System*. Sydney, Law Book Co. of Australasia, 1957. ix, 106. Index. £1/5/- (Aust.).
- Satow, *Guide to Diplomatic Practice*. 4th ed. (Sir Neville Bland, ed.). London, Longmans, Green, 1957. pp. xvii, 510. Index. £4/15/9 (Aust.).
- Smith and Thomas, *A Casebook on Contract*. London, Sweet and Maxwell, 1957. pp. xxii, 483. Index. £2/5/- stg.

SOME RECENT BOOKS

Now available in Australia

AP/2

- Australian Encyclopaedia of Forms and Precedents* Vols. 3 and 4, 1956, Vols. 5 and 6, 1957.
- Allen, *Aspects of Justice*, 1957 (£1/14/6).
- Butterworth's *Australian Company Forms and Precedents*, 3 vols. (£18/18/-).
- Dias and Hughes, *Jurisprudence*, 1957 (£2/18/6).
- Fleming, *Law of Torts*, 1957 (£4/4/-).
- George, *The Sale of Flats*, 1957 (£1/14/6).
- Hailsham, *The Law Relating to Monopolies and Restrictive Trade Practices*, 1956 (£1/12/6).
- Joske, *Law of Partnership in Australia and New Zealand*, 1957 (£1/12/6).
- Megarry and Wade, *Textbook on the Law of Real Property*, 1957 (£4/8/-).
- Muhammad, *Legal Framework of World Trade*, 1958 (£2/19/-).
- Nathan, *Medical Negligence*, 1957 (£2/9/6).
- Nickol, *Scientific Investigation of Crime*, 1956 (£3/8/6).
- Parry, *Nationality and Citizenship Laws of the Commonwealth*, 1957 (£8/8/-).
- Singh, *Termination of Membership of International Organisations*, 1958 (£2/2/-).
- Sohn, *Cases on United Nations Law*, 1957 (£7/7/-).
- Stone, *Aggression and World Order*, 1958 (£2/-/-).
- Supplement to Butterworth's Annotations of Victorian Statutes, 1928-1956*, 1957 (£1/3/-).
- Supplement to Commonwealth Statute Law Decisions 1951-1957*, 1957 (£1/11/-).