limits indicated. Certainly any teacher of jurisprudence who considers that his main object should be to encourage students to think rather than to learn is certain to welcome such a convenient and perceptive collection of materials.

D. J. MacDOUGALL.*

Cases on Private International Law (3 ed.) by J. H. C. Morris. Oxford, Oxford University Press, 1960, xxxiii and 513 pp. and Index. (£4/1/3 in Australia).

As it is now twenty-one years since the first edition of this work appeared, the author has been able to exercise his power to make a domicile of choice nor, contrary to the ordinary rule of English law, will his domicile or origin revive. By this is meant that, in 1939, a companionship with, if not a dependence on, *Cheshire*[1] was established. But the post-war resurrection of *Dicey*[2] changed all that, and a reviewer of the second edition of the casebook was able to declare[3] that Dr. Morris' *Cases* would ". . . on occasions make recourse to the last edition of *Dicey* unnecessary . . .". Since then another edition of *Dicey*[4] has appeared and this comment is just as much in point. One link with the past remains, however, one which some textual researcher in some future century may seize upon with eagerness, ignoring other signs of change. Dr. Morris is University Reader in Conflict of Laws, Dicey's work is also on Conflict of Laws, but both the *Cases* and Dr. Cheshire's work share the title Private International Law.

Yet the work in its present form is so much a companion to *Dicey* that it is questionable whether it can be used as a companion to any other work. Indeed, now that *Dicey* has grown to such a size many students will rely on the *Cases* alone. Nor need they feel unsafe in doing so. Not only does this latest edition contain well over a hundred cases, but also the Notes, twenty-three in all, are in most cases a careful précis (and often a word for word reproduction) of the corresponding passages in *Dicey*. Perhaps in later editions the work will be thrown off and the work may take on the title and the mantle of the "Student's Dicey"[5] which enjoyed a brief life some thirty years ago.

There are signs that this tendency may have been arrested in time; "straws" as Dr. Morris himself states, on another matter, "which show that a shift of wind may be in the offing". Thus one welcomes a paragraph which begins "Poor Mrs. Ogden! It is easy to sympathise with her matrimonial misfortunes" (92), even though one notices that her *cause célèbre* has escaped the bounds of the section on "Formalities" in the second edition and has now found a home under "Capacity to Marry". One welcomes the matrimonial adventures of Anna, Clara and Benito as illustrations of the Incidental Question;[5a] in other places, too, problems and questions are raised, though, on occasion, they are merely carried over from the Illustrations given in *Dicey*.[6]

On turning to the text one sees that a number of old favourites have gone and have been replaced sometimes by cases reported since the publication of the second edition and sometimes by those of an older vintage. Of course there comes a time when judicial decisions, and the academic topics concerned with them, lose their appeal and "go off", though, for some, age gives a special dignity in the same way as the money in one's pocket, if not overworn, may,

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[1] G. C. Cheshire, *Private International Law* (5 ed. 1957).
[2] A. Dicey, *Conflict of Laws* (6 ed. 1949, by J. H. C. Morris and others).
[3] (1952) 15 *Mod. L.R.* 401.
[4] 7 ed. 1958, by J. H. C. Morris and others.
[5] E. L. Burgin and E. G. Fletcher, *The Students' Conflict of Laws based on Dicey* (2 ed. 1934).
[5a] At 25.
[6] E.g. Note U "Some problems on wills" (435-6) owes very much to *Dicey* 601-23.

though remaining legal tender, acquire the status of "coins" and turn one into a numismatist on the spot. One might suggest, therefore, that the section on Property, which covers a third of the work, might be reduced in scope. For, if we leave aside three cases on government seizure of property and three cases on winding-up of companies which are useful and live[7] additions to this work, we find that, of the 29 cases remaining, all but 5 are over thirty years old, and of these 5, 3 are concerned with the effect of marriage. Nor does a reference to the author's Notes indicate that there is much recent litigation on the subject. Furthermore, there must be many law schools in which the subject of private international law is not treated as a full subject and in which, therefore, as in Sydney the rules concerning property rarely receive more than a passing mention.

Since, therefore, the *Cases* now seem likely to run, Dalmatian-fashion, behind successive editions of *Dicey*, the opportunity might be taken to widen the net and to include even more topics of current concern. The hand that gives *Re Marshall*,[8] *Wood* v. *Wood*,[9] *Robinson-Scott* v. *Robinson-Scott*[10] and *Koop* v. *Bebb*[11] could surely have provided one of the "common law marriage" series of decisions,[12] one on the *Locus* of a tort[13] and e.g. *Chappelle* v. *Chappelle*,[14] *Regazzoni* v. *Sethia*,[15] *M'Elroy* v. *M'Allister*,[16] *Risk* v. *Risk*,[17] *Kaur* v. *Ginder*,[18] and *Bliersbach* v. *McEwen*.[19]

One would welcome more of Dr. Morris' incisive comments and suggestions as well as extracts from his review articles such as that on polygamy[20] or the "proper law" of a tort.[21] Would it not also be worthwhile to include one or two instances of the arguments of counsel? One thinks in particular of the vivid and hectic scene which is recorded in the report of *Chetti* v. *Chetti*.[22]

As a way of achieving the extra space required, it could also be suggested that the statements of fact which precede each case could be trimmed to a more or less standard size. Thus it would hardly seem necessary to allot over a page to the simple, though entertaining facts of *Hyde* v. *Hyde*.[23] Again, though such a move may well raise a flutter of envy and despair among lady readers, it would seem to be a "not justifiable" act to puff Ignacia Sottomayor and Gonzalo de Barros (in the second edition) to the more full-throated Ignacia Clara Maxima Pacheco Pereira Pamplona de Cunha Sottomayor and Gonzalo. Lobo Pereira Caldos de Barros respectively in the third. Turning lastly to relatively minor matters, one must point out that Lord Penzance had not been summoned to the House of Lords at the time of *Hyde* v. *Hyde*;[23] that occasionally passages are omitted from the judgments without the usual marks of indication[24] and that in a number of the judgments the judges expressly refer to old editions of *Dicey* but that on only one or two occasions have these references been adjusted to the latest edition; that there undoubtedly exist

[7] Though two of the winding-up cases deal with the melancholy search for repayment from the former Russian banks which, though inspired by a different economic creed, has provided the legal profession with as much satisfaction as Peter Thellusson's will.

[8] (1957) Ch. 507.

[9] (1957) P. 254.

[10] (1958) P. 71.

[11] (1951) 84 C.L.R. 629.

[12] E.g. *Taczanowska* v. *Taczanowski* (1957) P. 301.

[13] E.g. *Monro Ltd.* v. *American Cynamid Corpn.* (1944) K.B. 432.

[14] (1950) P. 134.

[15] (1958) A.C. 301.

[16] 1949 S.C. 110.

[17] (1950) P. 50.

[18] (1958) 13 D.L.R. 465.

[19] (1959) S.L.T. 81.

[20] "The Recognition of Polygamous Marriages in English Law" (1952) 66 *Harvard L.R.* 961.

[21] "The Proper Law of a Tort" (1951) 64 *Harvard L.R.* 881.

[22] (1909) P. 67.

[23] (1866) L.R. 1 P. and M. 130.

[24] E.g. on 97.

some students who will be fundamentally, and even irrevocably, upset by the "headnotes" on pages 222 and 247 which read, respectively, "The essential validity of a contract is governed by its proper law, i.e. the law of the country with which the contract has the most real connexion" and "or the proper law may be the law of the country with which the contract has the most substantial connexion"; that on one occasion only, and then apparently without reason,[25] the names of the opposing counsel are given after the statement of facts.

How, then, is one to pronounce upon this work? The best assessment, one feels, is that it stands at the crossroads, looking back to its old "companion" days and, like many a so-called casebook, containing for the most part a heap of useful and steady decisions, yet looking forward to a stage in which it could be a textbook in its own right. For although the *Cases* is nearly half the price of *Dicey* there are not many students who can lay out eight guineas for one work and that on a subject which, for many, will not be a full course; the "companion", therefore, may as well start getting ready to travel alone.

J. A. ILIFFE.*

Industrial Conciliation and Arbitration in Australia, by O. De R. Foenander, LL.M. (Melb.), Litt.D. (Melb.), Senior Research Fellow in the University of Melbourne. Sydney, The Law Book Co. of Australasia Pty. Ltd., 1959, xx and 220 pp. with Indexes. (£2/15/0 in Australia).

This is Dr. Foenander's seventh major work on industrial regulation in Australia.[1] None of these works attempts to be a complete coverage either of a particular industrial jurisdiction or of a particular segment of industrial law or relations. Rather, they take the form of a collection of essays on various aspects of the arbitration system. While this allows the author to discuss new developments since the publications of a previous work it also means that each new work tends to repeat much that has been said before, either by himself or by other writers. To many of his readers it would be more satisfactory if Dr. Foenander produced a work dealing with a particular segment of industrial law and relations and kept it up-to-date by writing new editions. This would give greater continuity to his writings and facilitate reference to particular topics therein.

Part I of the present work[2] is basically a descriptive survey of the Commonwealth and State arbitration and wages board systems, reinforced in many places, with comments on their impact on industrial relations. Five of the six chapters involved,[3] however, are concerned essentially with the Commonwealth industrial jurisdiction. While the author is, of course, free to determine the arrangement of his work, to many the result may seem lop-sided. Undoubtedly, the Commonwealth industrial jurisdiction is the most important in Australia but it still covers less than half of Australian employees. Moreover, the initiative in developing new industrial standards has tended to pass to the States, particularly New South Wales, as witness the recent legislation concerning equal pay, preference to unionists and political levies by trade unions. What is more, in Queensland and Western Australia only a small percentage of employees are covered by Commonwealth awards, the industrial tribunals there continuing to exercise a very real and independent authority. It is true that the State jurisdictions are dealt with at greater length in previous works, notably, *Better Employment Relations*,[4] but this is now six years out of date. It may be

[25] Possibly because the judge refers to counsel by name in the course of the judgment. But this happens in other cases given in the work and here the simple expedient of putting "counsel for the plaintiff" in brackets is used (e.g. 5).

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[1] He is also author of a book on workers' compensation in Victoria.

[2] Pp. 3-175. [3] Cc. i-iv, vi. [4] (1954), by the same author.