

DIAS

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By

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DEDICATED TO THE
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PREFACE

THE study of Jurisprudence is an opportunity for the lawyer to bring theory and life into focus, for it concerns human thought in relation to social existence. Teachers of law always hope to encourage their pupils to learn how to think rather than just what to know, and Jurisprudence is peculiarly suited to this end because it can set law in wider contexts and proceed by way of stimulating ideas and not simply by instruction. This book does not aim at evolving or demonstrating a particular theory, but seeks instead to provide a way of thinking about law. It also furnishes material for the evolution of one's own ideas and the understanding of other theories and in this latter respect serves as a prelude to such contributions by inducing an informed and critical approach to them. The best guarantee of independence and originality in thought is breadth of view, a sense of perspective and a sympathetic appreciation of what people have said and are saying. No one theory provides the best or exclusive avenue to "truth", and those who choose to tread one path rather than another are not for that reason misguided and in darkness. Jurisprudence is a wide field crossed by many paths, none being superior to another, since much depends on whither one wishes to go.

With a view to giving effect to this aim an attempt has been made in this book to provide a text which might serve as a guiding-thread to the extensive literature on the topics that are dealt with, and which, it is hoped, will give readers a picture of those topics and some idea of the issues and problems they involve. The reading-lists appended to each chapter are no more than pointers for preliminary purposes only. Side by side with this, a parallel attempt has been made to provide fuller references for those wishing to delve more deeply. These are contained in the companion volume, *A Bibliography of Jurisprudence*, the object of which is to enable its readers to steep themselves in as many aspects as possible of the various topics by consulting a wide range of views and shades of opinion.

The principle change in the previous edition was the introduction of a "temporal" approach to legal phenomena which

affected practically every part of the subject. The only reason why it was not made the subject of an entirely new work was that it lent itself readily as a basis for a more meaningful treatment of the existing material. The plan of the present edition is different again. Its theme is the "achievement of justice" as a major concern of law, which absorbs and extends the earlier theme. This cumulative development stems from the fact that the book was born before being conceived, which is why its gestation has been unusual, to say the least. In addition to a great deal of new matter and a great deal of excision throughout, four new chapters make their appearance, some old chapters disappear, there are now two Parts instead of three; all of which has involved extensive re-writing and re-arrangement. The increase in the length of the text by 105 pages is a matter of deep regret, especially as every effort was made to keep the increase within modest limits.

A minor innovation, introduced in the last edition and which has been continued, is an attempt to draw the book more tightly together by bringing various theories, dealt with in Part II, into the context of discussions in earlier chapters. Experience has shown that pupils are better able to appreciate a theory if it is considered while the problem, to which it is most relevant, is still hot so to speak, and before the details have been obscured by other problems. To enable this to be done without disturbing the structure of the book, forward references are given in the first Part to appropriate theories appearing in the second Part; but these need not be followed up at the suggested points unless one wishes.

The acknowledgment of the debt to others is always the pleasantest task. The help given by those mentioned in the Prefaces to the first two editions has been of permanent value and although they have been spared in the preparation of this edition, my gratitude to them can never diminish. It was my wife who was called upon to make even more exacting sacrifices than before. That the failings of this presentation are not greater than they are is due to her critical and constructive help in matters ranging from vital issues to the positioning of commas. She also devoted many hours of her valuable time to checking every word in manuscript and in proof. The kind of debt that is owing for such services cannot be put into words. A special word of thanks should also be given to that unfailingly helpful body of critics,

the undergraduates, whom I have met over the years in discussions and classes. It is for their successors that this work is designed, and if it proves to be of value in future, that might atone in some measure for the experiments that were inflicted upon them.

In conclusion, I would like to record my appreciation of the efforts of the Publishers and the Printers. As before, the whole book emerged in most accurate page proofs before I had barely got over the relief of having parted with the manuscript. They have made the arduous business of seeing it through the press as smooth as possible.

R. W. M. DIAS

March, 1976

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