

BOOK REVIEWS

CASES AND MATERIALS ON EVIDENCE. By J. D. MORTON, M.A., LL.B. (Trinity College, Dublin). Toronto: Butterworth & Co. (Canada) Ltd. 1960. Pp. xxii, 667. (\$18.50, student rate \$13.50)

It seems almost ironic that a recent immigrant to this country working in the academic field should produce the first collection of cases and materials on evidence in Canada. The value and importance of such a collection is in direct relation to that of "evidence" in the practice of law. But anyone acquainted with Professor Morton, or familiar with his academic activities, will not be surprised that he should pioneer in such a wild and challenging field. It was probably inevitable that such a book be produced by an academic specialist in the field rather than a practitioner of such calibre, whose time would not allow such a venture.

Although a newcomer to Canada and primarily concerned with academic matters, Professor Morton is clearly a master in the field of evidence. His collection covers the whole of Canadian case law on the subject and compares and contrasts it with the British case law, with some reference to United States authorities. The arrangement of material is very good — indeed as good as any — such a wide field could be arranged in numerous ways, all equally commendable. Generally the material is divided into three Books entitled Admissibility, Proof, and Decision. Each Book is in turn conveniently sub-divided into various topics in sufficient detail as to make the table of contents a true key to the Book, and reference simple. A detailed table of cases follows the contents.

There can be no doubt that a work of such magnitude must have some imperfections and one could if so inclined probably find adverse criticism but such would be negligible. My only regret is that the Book does not contain a comment by the author preceding or following the collection of cases and materials on the various topics. Anyone familiar with the standard of academic excellence set by Professor Morton would consider such a comment a valuable addition. This, however, would change the nature of the Book from a pure collection to a collection and commentary, which was clearly not the author's intention.

In its present form the Book provides a clear and concise digest of all the leading authorities on any point of evidence skillfully arranged with meticulous care from which the reader may draw his own conclusions. At the very end of his Book the author has included a case report on methods of assessing evidence as if by way of a cautious reminder to anyone who might under-estimate the difficulties in assimilating and evaluating evidence.

Undoubtedly anyone concerned with teaching evidence in a Law School in Canada will extend a special vote of thanks and encouragement to the author. The practitioner who does not find this book invaluable in his day-to-day work will surely be envied by the majority of his colleagues, who will.

CASES, NOTES AND MATERIALS ON THE CONFLICT OF LAWS. By J. G. Castel. Toronto: Butterworth & Co. (Canada) Ltd. 1960. Pp. xxvii, 1092. (\$23.00, student rate \$13.50).

Any collection of material on conflict of laws in Canada must be welcomed. Clearly there is no field of law so large and so important in a federal state and so neglected as the field of conflict of laws in Canada. The reason for this is clear — it is the most complicated field. With the exception of John D. Falconbridge no Canadian has made any real contribution in the field of conflict of laws in Canada, and the inevitable march of time, development of communications, increased travel, etc. has made the works of Falconbridge obsolete, without detracting from their original merit. This present collection of cases and materials, therefore, by J. G. Castel is the only significant and comprehensive Canadian work of its kind available to Canadian students of conflict of laws, and practitioners in the field. This collection together with the author's earlier work, "Private International Law", (1960) does place in the hands of those interested in conflict of laws a wide selection of basic materials. For this the author deserves, and will undoubtedly be extended, the appreciation of the legal profession generally.

Any work of this magnitude in a field of such diversity almost of necessity has its faults. This work is no exception. It can be adversely criticized as it can be praised; this book invites both.

The book contains approximately 1000 pages of cases, materials and references drawn from Canadian, United States, English, French and other authorities, divided into three parts.

Part I is concerned with general considerations and domicile; Part II deals with conflict of laws proper and includes all the major topics; Part III is devoted to conflict of jurisdictions. Personally, I find the arrangement difficult and somewhat hard to follow. However, the book is quite well indexed.

In his preface the author said, "it is necessary to understand the historic background of this subject as well as the technique utilized to solve any problems presented to the courts. Once this technique has been absorbed by the student, he will have no difficulty in understanding the most complex rules". The last sentence is a unique understatement — but the student might

still have no idea what those rules are. The preface suggests that this preparatory background is found in Part I. However, Part I concerns itself with the nature, object, scope and sources of conflict of laws, and the question of domicile. I suggest the student would still be a far from discovering "the technique utilized to solve any problems presented to the courts". Indeed such an approach is somewhat ambitious, even if one were to admit there was such a technique, which I do not for a moment.

But to criticize adversely is to destroy, and as my intention is exactly the opposite I shall desist. Regardless of the individual approach or preference as to arrangement anyone interested in conflict of laws will find in this collection a handy reference to much valuable material together with extensive references to further authorities.