
Book Reviews

Loveland, Ian (ed.). *A Special Relationship? American Influences on Public Law in the UK*. Oxford: Clarendon Press, 1995. Pp. vii, 322. Index.

From an American perspective, the title of this collection of essays might easily have been: 'What's a Brit to make of the Yanks' predisposition to enact legislation and promulgate loquacious Supreme Court opinions, and what influence do these have on British public law?' One cannot quickly conclude that the British understand American legal traditions, especially after witnessing the confusion in England following the Louise Woodward au pair tragedy as it unfolded in a transatlantic media blitz. Public opinion notwithstanding, the trend worldwide is for legal specialists to rely increasingly on the laws of other countries. In this spirit, a special relationship based on a shared cultural heritage continues between the Americans and the British. This book brings together a dozen essays written for faculty seminars at Queen Mary and Westfield College. The British legal academics who submitted essays on their areas of expertise demonstrate a sophisticated technical understanding of the American legal system. Some write with hints of admiration, although one also gleans an occasional trace of ethnocentric condescension in a critique of what their former colonists are up to now.

The text covers a broad range of topics. Some pieces are wholly theoretical, while others explore more practical applications of the law. The more theoretical essays cover the symbolism of Anglo-American constitutions; moral independence and equality in public law; standing and representation; and American influences on judicial review in

England. Several writers trace the historical influences of American legal culture and public law on British legal ideals. Other essays explore a shared vision of democratic legal theory. For example, one author explores the larger ideals of equality and moral independence that underpin the rule of law by discussing John Stuart Mill's principle of limited government as it relates it to US Supreme Court decisions on contraception and abortion. 'Beneath the differences of constitutional tradition lie more abstract questions of political theory, whose contemplation, as they arise in either country, can inform our understanding of the rule of law and can thereby contribute to the evolution of public law in both' (at 76). One sees evidence of a suggestion by the British judiciary that it is prepared to accord persuasive authority to the constitutional values of other democratic nations when deciding upon ambiguous common law or statutory law that impacts civil liberties. Hopefully, the US Supreme Court will expand America's legal horizons in this same enlightened direction.

The more practical essays in the text address a variety of issues, primarily on criminal justice-related topics. A few authors identify several legislative or judicial approaches that can be appropriated from American law. One essay, for instance, describes American patterns in sentencing policies and laws, with the aim of urging a more coherent, principled approach to sentencing in England which is currently located in British appellate review. With the goal of protecting the public interest, another British scholar writes about the rise in private prisons and the mechanisms available to regulate the process of contractualization in order to achieve accountability, openness in decision-

making, and legitimacy of this popular private enterprise. Several essays spell out exactly how American legislative and judicial pronouncements have influenced British case law (e.g., the libel cases of *Derbyshire County Council v. Times Newspaper* and *New York Times v. Sullivan*). Other contributors attempt to inform British law-makers and judicial decision-makers as to potential legal pitfalls.

Regarding key pitfalls to be avoided, one of the strongest pieces in the text is by Ian Loveland, also the editor of the volume. Loveland's stimulating essay examines the criminalization of racist violence and, in so doing, he provides a clear explication of US Supreme Court jurisprudence. Beyond this, however, Loveland adeptly intertwines the perspectives of American legal theorists on hate speech, such as Patricia Williams' theory of 'spirit-murdering' caused by the toleration of racist violence. He concludes that Parliament should adopt the sentence enhancing law for hate speech from the American case of *Wisconsin v. Mitchell*. Although the principles are relevant to current events in Britain, Loveland admits that implementation is likely to be problematic.

A few authors convincingly highlight the intense particularity of the American Constitution. Some do not attempt to draw connections to a special relationship between English and American law, but instead focus on historical accounts of American constitutionalism. For instance, one author 'deconstructs' the American Constitution's intended universality of rights that resulted in the 'invidious and persistent exclusion' of Indians and others (at 193). In essays such as these, the American reader is left with the sense that the critique of American constitutional jurisprudence is more of a finger-pointing exercise than (as the title of the book suggests) the intended analysis of American influences on public law in the UK. On the whole, these essays competently explore ongoing American legal manoeuvres in several 'hot' areas, such as campaign finance reform, free speech, abortion, environmental regulation,

equal protection of minorities, and sentencing policies – all of which can be instructive, given the increasing internationalization of public law.

For the American reader, the contribution that this book makes is to present a fresh view by foreign observers of America's legal landscape, akin to hearing first-time visitors describe the Grand Canyon, New York City or the New Orleans Jazz Festival. In the end, the British reader will not find answers as to why an American jury found Louise Woodward guilty of second degree murder, why she received a life sentence, or why the judge eventually overturned the verdict. For the British student of the law, however, a special relationship does exist. The contributions included in this volume demonstrate that indeed England can and should be influenced by American efforts to draft, implement and adjudicate public law so that they can be aware of potential constitutional problems when confronting similar pressing social issues.

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Ali Khan, L. *The Extinction of Nation-States: A World without Borders*. The Hague, London, Boston: Kluwer International, 1996. Pp. viii, 245. Dfl.165, \$115, £74.50

Ali Khan's chosen topic is a fascinating one: the demise of the nation-state as the prime organizational unit of society and as the central subject of international law. He approaches it directly from the perspective of classical international law, from a traditional Grotian stance. The structure is much as one would expect: Part I deals with the 'Advent of the Nation-State', covering the demise of the Papacy and the Holy Roman Empire, competing conceptions of sovereignty, and the basic attributes of statehood; Part II tackles the 'Weakening of the Nation-State', both in terms of the contradictions inherent within states and in terms of the impact of changes in the international system, with particular reference to the example of the EU; and Part III is