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This volume has been published to commemorate the hundredth anniversary of the French Comparative Law Association. Its main theme is the benefit which French legal thought has derived from studies in comparative law. Each of the twenty-three contributions to the volume has been written by a different author. They constitute, to use the words of the preface, an inventory of the essential influences exerted by foreign legal systems on the main branches of French law, which, according to the French classification as stated in the preface, include public law, private law, criminal law, social law, and labor law. The coverage is not complete (e.g., mining law is not included), and some important branches of the law have been dealt with only incidentally or summarily, under very general headings such as “civil law.”

The introduction to the book has been prepared by the President of the Association, Judge Ancel, who outlines the history of comparative law in France. Maybe Montesquieu was the first French comparatist; but Ancel, citing the authority of Gutteridge, identifies the year 1869, marked by the organization of the Association, as the birth-date of modern comparative law studies, some time after the comparative approach was accepted as an advantageous method in some other disciplines—particularly in natural sciences and literature. In the same year of 1869, the Belgian review of international and comparative law was launched, and Oxford University established a chair of Historical and Comparative Jurisprudence.

The second landmark in the development of comparative law is said by Ancel to be the First International Congress of Comparative Law, held in Paris in 1900. The importance of this event is universally recognized, and—even though the author does not mention it—papers submitted to the Congress and later published became classic and serve as springboards for later research on the theory of comparative law. The period which followed the Congress was marked by vigorous discussions on the role and essential characteristics of comparative law.

A new phase began after World War II. Purely theoretical speculations gave way to a more practical approach. Positive law of various legal systems was being studied and the emergence of many “people’s democracies” increased interest in comparisons between the Western and “socialist” legal concepts and institutions.

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1 The literal translation of the French name of the Association is “Society of Comparative Legislation.”

2 However, the division of the volume into a few parts follows a slightly different pattern. Philosophy of law and legal sociology are treated in the part dealing with “General Aspects of Comparative Law.” The next part is devoted to “private law,” followed by that on “public law” and that on criminal law. The part entitled “social law” covers labor law, and the last one deals with French legal practice.
The author states that by now not only the interest in, but the necessity of, comparative law, are well established. He emphasizes the importance of influences which the legal systems exert on each other, particularly in some fields of the law, and mentions a few common law concepts such as trust and probation which were either adopted or imitated in the civil law world, or at least are well known under their original terminology.

The next contribution, by Professor Drago, outlines the history and achievements of the French Comparative Law Association. This is a very natural topic to be dealt with in a volume published on the occasion of the centennial of the organization. However, it presents less interest to the foreign reader.

Professor David describes, in his chapter, the place of comparative law in French legal studies and research. He does not conceal the pride occasioned by the fact that France seems to have made more progress in this field than other nations. In 1955, a course in comparative law has been added to the curriculum of the fourth year of studies at all French universities (which was easily done by a central order, all regular French law faculties being run by the state). Professor David recommends that the course be made mandatory for all students, and that a few “scandals” be eliminated (such as the closing of law faculty libraries during the summer, and the failure of librarians (and even some professors of comparative law) to utilize important bibliographical publications such as the Index to Legal Periodicals and the Index to Foreign Legal Periodicals).

The chapter on legal philosophy follows. Written by Professor Brethe de la Gressaye, it is one of the shortest. While to many legal scholars the interplay between comparative law and legal philosophy is obvious, the author begins his observations by asking the question whether there is any relationship between the two disciplines—of which one deals essentially with positive laws “linked with a determined political status,” and the other deals with theories of legal scholars of all nations, and “endeavors to solve problems of universal significance.” To pose the question in such a way does not seem to be the best approach, and the narrow role attributed to comparative law appears to be unwarranted. However, the author mentions many legal philosophers who did not make any use of, or even references to, comparative law in their writings, and states that del Vecchio was the only legal scholar who forcefully demonstrated the contribution which comparative law can make to legal philosophy. While sociologists took advantage of comparative law more frequently than philosophers, the conclusion of the

3 Thus, Wigmore calls “Comparative Nomothetics” the part of comparative law which analyzes the policies and relative merits of different legal institutions with a view to moulding legislation. A Panorama of the World’s Legal Systems, Vol. III, p. 1120 (1928). See also his “Comparative Law—Jottings on Comparative Legal Ideas and Institutions,” 6 Tul. L. Rev. 48 (1931), continued in 6 Tul. L. Rev. 244 (1932). See also Pound, “Philosophy of Law and Comparative Law,” 100 U. Pa. L. Rev. 1 (1951) and Hall, Comparative Law and Social Theory, passim (1963). The author mentions the view that by use of comparative studies one can achieve “a better understanding of one’s law and progress in jurisprudence and history” (at 13). For some other comments, see Wagner, “Research in Comparative Law: Some Theoretical Considerations,” in Essays in Jurisprudence in Honor of Roscoe Pound, at 511 ff. (1962).

4 At 67.
author that comparative law studies did not enrich legal philosophy and sociology is probably correct to a large extent. The author suggests alternative explanations of this phenomenon—"incompatibility between these disciplines, or simple negligence of the specialists." On the other hand, Professor Brethe de la Gressaye "firmly believes that comparative law can profit from legal philosophy."  

Advantages which legal sociology can derive from comparative law are pointed out by Professor Carbonnier. The following chapters deal with comparative law in various fields of French law. Dean Marty analyzes foreign law influences on civil law, cites Saleilles who predicted that comparative law would help in "renewing the methods and the disciplines in order to liberate civil law from the discredit into which it tends to fall (and) to give it an ever more scientific appearance," but concludes that French civil law is less prone directly to accept foreign legal ideas than to be inspired by them and to undergo transformations along the lines of its proper character, because of its "vigor and own traditions."  

Professor Rodière is the author of a contribution on the "Renovation of the French commercial law by comparative law." He has no difficulty in citing many examples of reception of institutions originated in other countries into the French commercial practice. Thus, "leasing," "factoring," and "travellers' checks" came from the United States; commercial registers and the limited liability companies from Germany; maritime mortgages from England; the supervision of the stock market by a commission from Belgium and the United States, etc. The establishment of the Common Market was an especially important factor in subjecting French commercial law and practice to influences of other West European systems. Further significant steps in international unification of some rules of commercial law were taken as a consequence of some treaties in the field of maritime law (and particularly, the Brussels Conventions) and air law (and particularly, the Warsaw Convention).  

Professor Batiffol discusses private international law (conflicts of law) and concludes that while its development owes much to comparative law, the converse is also true. Professors Solus and Perrot point out foreign influences on the French judicial organization and procedure, which, however, are not very strong. Professor Mathiot discusses the impact of comparative law on constitutional law in the period from 1870 to 1940. He states that "a good knowledge of the constitutional law and the political life of foreign countries can show their advantages and dangers as well as discourage useless and impossible imitations," and finds that in the above period the French system influenced foreign systems, rather than being changed toward patterns accepted elsewhere. Dean Vedel takes up the period from 1945 to 1965, analyzes the possibility of France's taking constitutional examples from the three great victorious powers and finds that the British system

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5 At 70. The first alternative seems to be completely devoid of any grounds.
6 At 71.
7 At 108.
8 At 182.
9 At 173.
played a more important role in the shaping of the French constitutional ideas than did the American and Soviet systems in the first ten years after World War II, while the American presidential system was much discussed in the following period. The Constitution of 1958 rejected the American approach, but four years later the position of the President of the Republic became elective by universal suffrage. Dean Vedel points out the differences between the French and the American implementation of their respective systems and states that France was “never further from a presidential regime of the American type,” but this conclusion is denied both by the wording of the “de Gaulle Constitution” and the practice under its rules, and the general feeling of an important segment among French jurists, politicians, and public opinion. On the other hand, his prediction that after the era of de Gaulle constitutional changes will follow seems warranted.

Professor Rivero’s chapter is entitled “French administrative law and foreign administrative laws.” He finds that the French literature on administrative law ignores almost completely developments in other nations, for which he suggests two reasons: either an “absence of curiosity, the laziness of the mind, the nationalism . . . of French specialists in administration,” or the fact that this discipline “does not experience a need to resort to importation, in order to enrich itself, and to the contrary, is much exported.” He “dares to think that there is a little bit more truth in the second conclusion than in the first one,” gives examples of the acceptance of French patterns abroad, and does not find many opposite examples, even though from 1946 on interest in foreign administrative law greatly increased and a much more critical attitude toward their own system was demonstrated by French specialists.

Judge Letourneur, of the French Council of State, takes up the problem of the influence of comparative law on decisions of the Council. He states that twenty years ago there would have been nothing to write about, and that this could easily be understood in the light of the long history of the Council, dating back to 1806, which was able to establish a firm tradition of its own and influence developments in foreign countries. However, in the last quarter of a century, some English ideas, such as “Principles of Natural Justice” and audi alteram partem, began to be reflected in the Council’s decisions. Some other influences were exerted by the Swiss Federal Tribunal and the administrative tribunal of the International Labor Organization.

Even a summary analysis of other chapters would exceed the limits of this book review. Professor Gaudemet discusses “Comparative Financial Law,” explains the difficulties of the comparative approach in this field but points out that a start has been made. Mr. Mehl analyzes contributions of comparative law to French fiscal law. Professor Levasseur deals with developments in criminal law, Professor Vouin with trends in criminal procedure, and Chief Justice Cannat (of the Court of Appeals of Monaco), with progress in the penitentiary system.

Professor Lyon-Caen submits a study on labor law, and Professor Jambu-

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10 At 196.
11 At 199.
12 Ibid.
Merlin on social security. The last part of the volume contains articles on comparative law and the French bench, by Judge Rolland of the Cour de Cassation; on comparative law and the bar ("formation of a jurist at the universal hour") by a former President of the Paris bar, Brunois; and on comparative law in notarial practice, by the notaries Pestourie and Vaccharezza.

The volume is interesting reading. Even though the sub-title indicates that it will deal with comparative law influences on French law, many contributions examine the ways in which French law inspired other legal systems; and the book includes some stimulating observations on the history and working of comparative law. The preparation of a similar "balance sheet" for the American legal system would be a challenging but rewarding enterprise. Who could undertake it? Maybe the American Foreign Law Association would take the initiative!

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13 It must be remembered that the institution of the notaries in the civil law world is a branch of the legal profession and has very little in common with the situation in the American system.