

Contents

Acknowledgments vii
Table of abbreviations xiii

Chapter 1

Introduction 1

1 A New World? 1
2 Globalisation 4
3 Jurisprudence and law as a discipline 10
4 Overview 13

Chapter 2

General and particular jurisprudence: three chapters in a story 15

1 Introduction 15
2 Jeremy Bentham and John Austin 15
 (a) Bentham 15
 (b) Austin 21
3 Holland and his Critics 25
4 Hart and Dworkin 33
5 Concluding Observations 47

Chapter 3

Globalisation and legal theory: some local implications 50

1 Globalisation: Three challenges to Legal Theory 50

× Contents

- 2 Legal Studies in London in the Mid-1990s 54
- 3 The Local Juristic Canon 56
- 4 Four Canonical Jurists 63
 - (a) Dworkin's Geographical Reach 63
 - (b) Bentham on Extent 65
 - (c) Reorienting Rawls 69
 - (d) Beyond Llewellyn's Law Jobs Theory 75
- 5 Normative and Legal Pluralism 82
- 6 Conclusion 88

Chapter 4

Jeremy Bentham and general jurisprudence 91

- 1 Celebrating Bentham 91
- 2 The Five Pillars of Bentham's Jurisprudence 94
 - (a) Utility 94
 - (b) The Theory of Fictions 96
 - (c) Legal Positivism and the Command Theory 97
 - (d) Democratic Theory and Constitutional Law 99
 - (e) The Concept of a Universal Science of Legislation 100
- 3 A Jurist as Citizen of the World: A Modern Benthamite 102
- 4 Eckhoff and Bentham 105

Chapter 5

Other people's power: the bad man and English positivism, 1897–1997 108

- 1 'The Path of the Law' 108
- 2 English Legal Positivism 111
- 3 The Bad Man in 1897 116
 - (a) Uncharitable readings 116
 - (b) A charitable interpretation 119
- 4 The Bad Man in 1997 122
 - (a) Gender 125
 - (b) Users 125
- 5 Standpoint: Three Distinctions 127
 - (a) General and particular jurisprudence again 127
 - (b) Participants, Observers, and Participant-observers 129
 - (c) External and Internal Points of View 132
- 6 Conclusion 133

Chapter 6

Mapping law 136

- 1 Introduction 136
- 2 Levels of Law 139
- 3 Mapping 140
- 4 Geographical Maps 142
 - (a) Khartoum, 1958-61 142
 - (b) Comparative Common Law: Belfast 1967-72 145
 - (c) Boston 1996 149
 - (d) Geographical Mapping: A Post-mortem 149
- 5 Mental Mapping 152
 - (a) Global Statistics 153
 - (b) Rankings 157
 - (c) The Law Schools Rankings Controversy 161
 - (d) Profiling Legal Orders 165
- 6 Cities and Legal Orders 168

Chapter 7

Globalisation and comparative law 174

- 1 Mr Palomar 174
- 2 Comparative Law: An Outsider's View 176
- 3 Macro-comparison: The Grands Systèmes Debate 178
- 4 Micro-comparison: The Country and Western Tradition 184
- 5 Rethinking Comparative Law: A Theoretical Agenda 189

Chapter 8

Globalisation, post-modernism, and pluralism: Santos, Haack, and Calvino 194

- 1 Introduction 195
- 2 *Toward A New Common Sense* 197
 - (a) Standpoints and concerns: Santos and Twining 197
 - (b) The Plot of Santos's Book 199
- 3 Two Strands in Post-Modernism 200
 - (a) Santos and Haack 200
 - (b) Calvino and Innocent Realism 210
- 4 Santos on Globalisation and Law 221
 - (a) Globalisation 221

xii Contents

- (b) Legal and Normative Pluralism 224
- (c) Mapping 233
- (d) Santos's Research agenda 239
- 5 Conclusion 242

Chapter 9**Epilogue 245**

- 1 Palomar in Palo Alto 245
- 2 Taking Stock of the Heritage 249
- 3 Cosmopolitan Legal Studies: Some Provocative Propositions 252
 - (a) The Challenges of Globalisation 252
 - (b) General Jurisprudence 254
 - (c) Comparative Law and Cosmopolitan Legal Studies 255

Appendix**Teaching about globalisation and law 257**

- Introduction 257
- A course description 258
 - Globalisation and law 258
 - Exercises 259
- Suggested Readings 261

Index 265