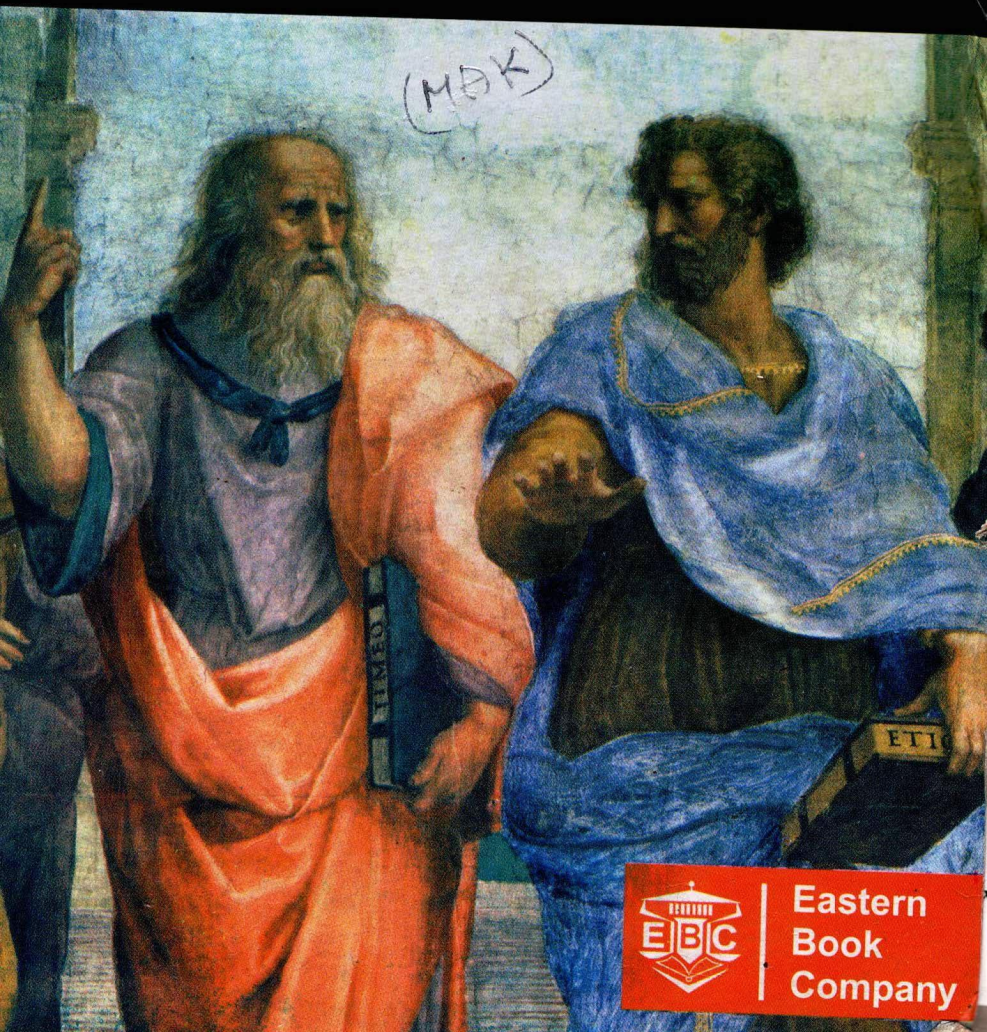


V.D. Mahajan's

Jurisprudence & Legal Theory

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FOREWORD

I AM HAPPY to be able to introduce this book to the reader.

We have few practising lawyers in our country who interest themselves in an academic study of law and legal principles. Those who do write on legal subjects produce commentaries on our Acts or epitomise of our uncodified law. It is therefore refreshing to find the author dealing with a subject like jurisprudence which deals with fundamental principles underlying all law.

The study of jurisprudence by our law students has evoked a great deal of controversy. There are some who take the view that the study of a subject so abstract can be usefully prescribed only as a part of the advanced courses of legal studies. Others take the view that an intelligent approach to the study of all law, whether statute law or uncodified law, is possible only if it is preceded by a knowledge of what law is, how it arose and the basic principles which underlie most systems of law. Whichever be the correct view it is obvious that a writer who attempts to collate and explain the fundamentals which underlie legal systems generally renders a useful service to legal learning.

The treatise of the author of which I have seen the first print seems to me to be a comprehensive collection of the views of distinguished jurists on basic legal principles arranged under appropriate heads. A useful feature of the publication is the invitation to the reader who feels interested in any particular head of jurisprudence to enter upon its research and study on his own by delving into standard works on the subject which are enumerated at the end of each chapter under the head "Suggested Readings".

I trust the book will be useful not only to students in legal institutions, but that it will reach the wider circle of academic and practising lawyers and others interested in law.

—M.C. SETALVAD

Attorney General of India, 20th November 1962

PREFACE

I REPEAT WHAT I wrote in the Preface to the First Edition of this book that the study of law must be given the due place it rightly deserves in free India. The study should be patronised in every way and every facility should be given to all those who can and are eager to pursue advanced study of any branch of law. While the State should come forward with more funds for the advancement of the study of law, it is the duty of the Hon'ble Judges of the Supreme Court of India and the various High Courts to make their respective contributions to the study of law. The learned members of the Bar in India should also take pride in advancing the cause of the study of law by their invaluable experience. They must not be selfish and keep their knowledge of law to themselves. They should be happy to share the same with others. Every great lawyer must write on the subject in which he has specialised. The teachers of law also must not lag behind. Everyone should devote himself wholeheartedly to the study of law and must make some contribution to some aspect of law. If we all pull together, the study of law is bound to make progress.

The object of this book is not only to explain the principles of Jurisprudence but also of Legal Theory. A detailed study of the same has been attempted in this edition. I have drawn largely on the works of Salmond, Prof. R.W. M. Dias, Lord Lloyd, Allen, Hall, Hart, Roscoe Pound, Paton and others and I am greatly indebted to all of them. At the end of every chapter, I have given Suggested Readings which will be found useful.

It gives me great pleasure to say that the present edition is a great improvement on the previous editions of this book. A comparison will show that most of the book has been rewritten. Chapters XXI to XXIX dealing with Analytical Legal Positivism, Pure Theory of Law, Historical School of Law, Philosophical School of

Law, Sociological School, American Realism, The Scandinavian Realists and Natural Law are new additions. Chapters on Nature and Scope of Jurisprudence, The Nature of Law, Kinds of Law, Law and Morals, Administration of Justice, Legislation, Precedent, Custom, Legal Rights and Duties, Ownership and Possession, Persons and Liability have been rewritten. There is hardly any chapter which has not been rewritten. All this has added to the utility of the book. This edition embodies the latest researches in the field of law in various parts of the world.

It is hoped that the new edition will be welcomed by all those for whom it is meant.

—V.D. MAHAJAN

1st February 1987

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