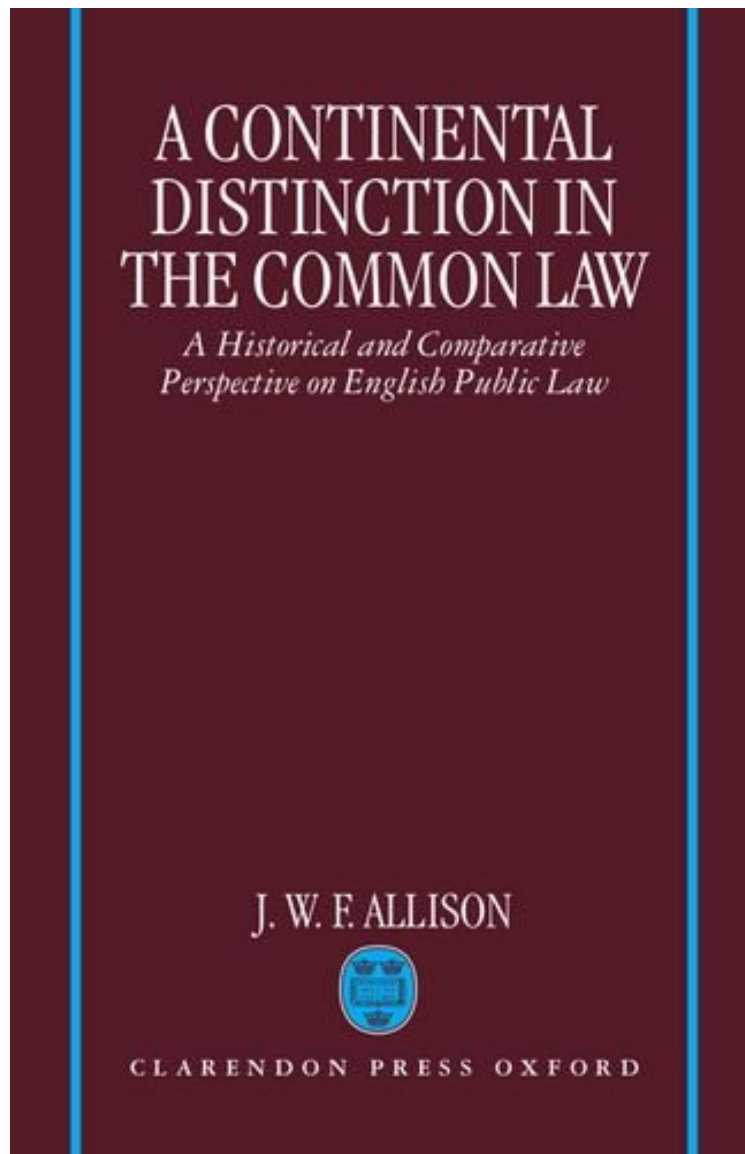


[Ebook free] A Continental Distinction in the Common Law: A Historical and Comparative Perspective on English Public Law

A Continental Distinction in the Common Law: A Historical and Comparative Perspective on English Public Law

J. W. F. Allison

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Continental Distinction in the Common Law: A Historical and Comparative Perspective on English Public Law:

The development of an autonomous English public law has been accompanied by persistent problems--a lack of systematic principles, dissatisfaction with judicial procedures, and uncertainty about the judicial role. It has provoked an ongoing debate on the very desirability of the distinction between public and private law. In this debate, an historical and comparative perspective has been lacking. *A Continental Distinction in the Common Law* introduces such a perspective. It compares the recent emergence of a significant English distinction with the entrenchment of the traditional French distinction. It explains how persistent problems of English public law are related to fundamental differences between the English and French legal and political traditions, differences in their conception of the state administration, their approach to law, their separation of powers, and their judicial procedures in public-law cases. The author argues that a satisfactory distinction between public and private law depends on a particular legal and political context, a context which was evident in late-nineteenth-century France and is absent in twentieth-century England. He concludes by identifying the far-reaching theoretical, institutional, and procedural changes required to accommodate English public law.

This book is a work of great scholarship and intelligence. It contains detailed and high-level analysis, and its range - Roman law, French law, English legal history, jurisprudence and contemporary English public law - is quite remarkable. The book is original and incisive, and deserves recognition as an important contribution to the debates about the public law/private law distinction and the nature of legal systems more generally...The book's significance - both analytically and prescriptively - is considerable. Here the reader will find an excellent historical-comparative presentation of the rise of the Conseil d'Etat in France, and the administrative tribunals in England...This thoughtful and carefully written book, in which constitutional law and the underlying political theories receive proper attention, will prove invaluable to any legal historian bold enough to study the intricate problem of the past and present distinction between private and public law in England and in France. Few jurists are as familiar as Allison with both the English and the French scene and able to enter with equal ease into the worlds of Duguit and Dicey. "In the Introduction to his excellent monograph, Allison lays out his thesis succinctly...He moves with ease from history to jurisprudence, from civil to common law, from principles to procedure, without losing the reader. This is no mean feat...This is both interesting and makes a substantial contribution to scholarly debate." "This is an outstanding work of scholarship, the purpose of which is to examine critically the distinction between public and private law, as it has been transplanted in the present century from civil law into English law, and to bring to that examination an historical and comparative perspective. The author achieves his purpose admirably...He writes a clear and elegant English...[T]he book is a pleasure to read." From the Back Cover The development of an autonomous English public law has been accompanied by persistent problems - a lack of systematic principles, dissatisfaction with judicial procedures, and uncertainty about the judicial role. It has provoked an ongoing debate on the very desirability of the distinction between public and private law. In this debate, a historical and comparative perspective has been lacking. *A Continental Distinction in the Common Law* introduces such a perspective. It compares the recent emergence of a significant English distinction with the entrenchment of the traditional French distinction. It explains how persistent problems of English public law are related to fundamental differences between the English and French legal and political traditions, differences in their conception of the state administration, their approach to law, their separation of powers, and their judicial procedures in public-law cases. The author argues that a satisfactory distinction between public and private law depends on a particular legal and political context, a context which was evident in late nineteenth-century France and is absent in twentieth-century England. He concludes by identifying the far-reaching theoretical, institutional, and procedural changes required to accommodate English public law. About the Author J. W. F. Allison is a University Senior Lecturer in Law, and Fellow at Queen's College, Cambridge.