

to the veteran, nevertheless, because of its general coverage and its concise and quick reference, it would be a valuable addition to the Criminal Law Library and an asset in the briefcase of the advocate.

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NEGLIGENCE IN MODERN LAW. By M. A. Milner. Toronto: Butterworths, 1967. Pp. xxxviii and 7 and 248. \$9.25.

Mr. Milner, in his preface, emphasizes the speed with which changes are wrought in the law of negligence. The title of the book is not misleading for Mr. Milner, after his introductory chapters, covers the following specific topics: The Tort of Negligence and the Law of Contract; Estoppel and the Tort of Negligence; Industrial Injuries and the Encroachment of Negligence on other Torts.

The author contends, and few would dissent from his view, that the operative place for the tort of negligence is at the centre of the law of torts. He then demonstrates how the influence of this tort radiates to influence the older forms of tort liability which surround it. A comparison is then made between the attempts of the Roman law and the modern civil law to balance the risk principle and the fault principle and the machinations of the common law to achieve the same end. It might, however, be alleged that the author exaggerates the difference between negligence and fault.

The author dexterously employs the aphorism and the epigram. The result is that the book should be read carefully for there are very few wasted words. Furthermore, many sentences are eminently suitable for quotation. The author mentions the usefulness of the duty of care as a judicial control which is flexible and can be used as a matter of policy. This was, of course, the device employed by the House of Lords in the disposition of *Rondel v. Worsley*.¹ Unfortunately, the decision of the House of Lords in that case was not published at the time the book was published.

The book contains a good analysis of the decisions on *res ipsa loquitur*. The references in this and other parts of the book are useful. Mr. Milner's ideas are valuable and he is at his best in discussion of the abstract.² For the sake of completeness, however, some parts of the book are merely expository, for example, the treatment of fatal accidents and of the action *per quod servitium amisit*.

Mr. Milner does explain the anomalies in the British law since the Occupiers' Liability Act.³ However, he confuses 'traps' and allurements. It is suggested that an allurement may not necessarily also constitute a trap for a child. The child may be injured by something quite other than the object which first attracted him on to the land. This being so, the allurement should be regarded as nothing more than a tacit licence. Of course, there is ample judicial authority for this imprecision.⁴

1 [1967] 3 All E.R. 993.

2 However, it may be said that occasionally he goes too far, at least for traditionalists, when at 196 he points out the similarity between *Rylands v. Fletcher* and negligence.

3 See Street (1968) 10 J. Soc. Pub. Teach. Law 60.

4 E.g. *Perry v. Thomas Wrigley Ltd.*, [1955] 1 W.L.R. 1164.

The principle drawback of this book is the price. In England the price of this book is 35/— (at an exchange rate of about \$2.56 to the pound this would amount to approximately \$4.48). One must allow a reasonable amount for transporting the book and the maintenance of the Canadian office of the publisher. However, the price of \$9.25 does seem to be exorbitant. This publisher is not particularly reprehensible; most Canadian publishers are able to charge similarly high prices.

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CANADIAN TREATY MAKING. By A. E. Gotlieb. Toronto: Butterworths, 1968. Pp. xi. and 107.

No one is in a better position to know Canada's treaty practice than Mr. Gotlieb, presently Assistant Under-Secretary of State for External Affairs and Legal Adviser to that Department. We are exceedingly fortunate that he has taken time to tell us about Canadian treaty-making.

In simple, crystal-clear fashion he explains the process by which our country takes on treaty obligations. When necessary, brief explanations of points of constitutional and international law are given. He analyzes the forms that our agreements take and the subjects with which they deal. Insofar as the former is concerned, there is a trend to a more informal and pragmatic approach, enabling simplified methods for making treaties.

It is a short work and the author very wisely avoids argument on hotly contested peripheral issues such as reservations to multilateral conventions, and the termination and interpretation of treaties. He deals very cautiously and effectively with the problem of implementation of international agreements in Canada. He points out that only a small percentage of treaties concluded by the Federal Government require implementation by legislative action on the part of the provinces. Most agreements either require no legislative action or fall within Dominion authority. Insofar as those which do need provincial action for implementation, Canada has a better record in undertaking these obligations than other federal states where the federal legislature has full authority to implement treaties.

In retrospect, it would seem that there was, perhaps, little ground for concern, expressed by some in the early years after the establishment of the United Nations, that the Canadian constitution would seriously hamper the effectiveness of Canadian participation in certain areas of U.N. activity. Over the years, Canadian representatives have, while bearing in mind the requirements of the Canadian constitution, participated actively and constructively in the drafting of what is often called "international legislation", in the United Nations and its specialized agencies and Canada's acceptance of that legislation, in a manner consistent with its internal constitutional requirements, bears favorable comparison with the achievements of the other members of the U.N.¹

In ten annexes, the author gives us examples of various forms used by the Canadian government in the treaty process. There is also a very adequate index.

¹ At 83.