

BOOK REVIEWS

CANADIAN CRIMINAL EVIDENCE: By Peter K. McWilliams, Q.C., Canada Law Book Limited. 1974. Pp. CIV and 703.

The importance of evidentiary rules to the satisfactory functioning of the criminal courts has perhaps not been emphasized as they deserve to be. McWilliams' canvass of the rules of Canadian criminal evidence certainly will serve to remind all those responsible for the functioning of the criminal courts that these rules are the eye of the needle through which they must pass their proofs. The number and range of the rules as presented and discussed should serve to introduce a measure of humility into the utterances of counsel. Even the most experienced of them will find much that is helpful in the work. Certainly, for the beginner, the collection will serve to emphasize that mastery of this branch of the law is the work of a lifetime.

The organization of the subject in the text offers no surprises and is thorough. Footnotes are not used. Rather, authorities are embodied in the text. In some cases unfortunately, citations are not accurate, e.g. *Dumbell v. Roberts et al*; is cited [1941] 1 All E.R. 326, when in fact it is to be found in [1944] 1 All E.R. 326. Doubtless, subsequent editions of the work will progress towards the elimination of these errors. There are approximately 3,000 cases listed in the Table of Cases.

The work can serve as a useful text for the student and certainly should be part of the equipment of every counsel practising in the Criminal Courts.

—B. M. BARKER*

*Professor of Law, Faculty of Law, University of Alberta, Edmonton.

THE INTERNATIONAL LAW OF POLLUTION. By James Barros and Douglas M. Johnston, The Free Press. 1974. Pp. xvii and 476. \$15.75

This book is not a textbook but a collection of materials with a minimal amount of introductory comment provided by the authors. It includes judicial decisions, treaties and agreements between nations, conventions, regulations, U.N. resolutions and declarations, but it does not appear to be a set of cases and materials structured with an organized course of instruction in mind. The authors state that they have deliberately attempted to avoid over-organization of the materials within a tightly constructed framework, which they would regard as a mistake. Consequently, while they believe that the book will be useful to teachers, it does appear that its usefulness will be more as a research tool than a teaching tool.

There are three parts to the book. In Part I, which is entitled *The Pollution Problem in Science, Law, and Policy*, the authors discuss briefly such matters as the problem of defining "pollution", and the accompanying problem of defining the terms commonly used to spell out the meaning of pollution such as "environment", "resources", and "impairment". They also provide comment upon identification of pollutants, criteria of control, priority of uses and quality standards. The remainder

of Part I consists of a brief analysis of negligence, strict (or absolute) liability, nuisance and riparian rights as common law doctrines related to pollution in the municipal sphere, and a selection of U.S. Supreme Court decisions. These decisions, presumably intended to be illustrative of the judicial approach to the pollution related principles of U.S. common law, are, with one exception, drawn from the first third of the twentieth century.

Part II is entitled *The Emerging International Law of Pollution* and constitutes the bulk of the book. In the introduction, the authors assert that, although there is little customary international law which is applicable, there is not a juridical vacuum, but, indeed, that there is international legal doctrine which supports the concepts of state responsibility for environmental damage done to another state. Both the *Trail Smelter* case and the *Corfu Channel* case are discussed in the introduction, and extracts from those decisions are included in the material.

The materials relating to the "emerging international law" are organized as follows. First those illustrating general principles of responsibility for environmental damage beyond territorial limits, then the topic of pollution of International Rivers and Lakes is divided between a selection of treaties, reports of the International Joint Commission, and agreements between Canada and the United States with reference to non-coastal boundary waters of those two nations, and similar materials concerning other international rivers and lakes.

Next follow materials under the heading *Air Pollution and Marine Pollution*. The former consists mainly of *Trail Smelter Arbitral Tribunal* decision. The latter is subdivided by reference to multilateral measures and unilateral measures (here the Arctic Waters Pollution Prevention Act (1970) finds its place). The treatment of multilateral measures is further subdivided into sections dealing with pollution of the sea by oil (from which the authors have omitted the TOVALOP and CRISTAL agreements) and dumping of harmful substances.

The last section of Part II concerns *International Environmental Cooperation and Regulation* and is dominated by materials from the 1973 Stockholm Conference.

In Part III the authors break away from pollution *stricto sensu* and present materials on related matters in selected areas of international environmental law. They cover the oceans, Antarctica, outer space, prohibition of ecocidal weapons and protection against radiation hazards.

In each section of each Part of the book, the authors have provided suggested reading lists containing references to relevant books and articles in journals. The authors admit that one who wishes to be critical can easily take issue with their selection of materials by pointing out serious omissions and the inclusion of certain "tangential" issues. However, this reviewer believes that the only valid test of the usefulness of a book of this kind is to put it to use as a research tool. Only then will it be possible to determine whether it succeeds or whether omissions of significant materials or inclusion of tangential materials mars its usefulness.

—GWILYM J. DAVIES*

*Associate Professor of Law, Faculty of Law, University of Alberta, Edmonton.