

Dickens' attitude to the problem of crime and punishment goes to confirm that a man may be a supreme creative genius, but have no worthwhile contribution to offer in a field which can only be subdued by special study and reflection. Genius is born with a man, but knowledge must be acquired.

Mr. Collins has set the record straight, once and for all, on the subject of Dickens and crime. His book does not celebrate the "jolly" Dickens of popular myth. It helps in the good cause of taking Dickens away from the children of all ages and giving him to the mentally mature. It belongs on every Dickens shelf, at the farthest end from the Christmas books, beside *Martin Chuzzlewit*, *Hard Times*, or *Pickwick*. It has earned for its author the gratitude of all adult admirers of the greatest master of English after Shakespeare.<sup>12</sup>

ROY ST. GEORGE STUBBS\*

## MANUAL OF MOTOR VEHICLE LAW

With Special Reference to the Ontario Highway Traffic Act

By DAVID B. HORSLEY. Toronto: The Carswell Company Limited. 1963. Pp. xxviii, 466. \$15.00.

This book is a commentary on the Ontario Highway Traffic Act. Its format is well described by the author in the Preface:

The book is not a text in the strict sense, nor is it in more than a general way an annotated Act, but rather a collection of "notes" hinged onto the text of The Highway Traffic Act.

It is a compromise between a general treatise on the one hand, and a mere digest or catalogue of cases, such as O'Connor's *Highway Traffic Act*, on the other.

Books of this type are undeniably of great value as practitioners' aids, but they are subject to a number of inherent shortcomings. Mr. Horsley's book is not free from such weaknesses.

The need to relate every comment to some specific provision of the statute leads to awkward organizational problems. We find, for example, a 33-page discussion of the duty to repair highways inserted as part of the commentary on the statutory definition of "highway".

Because of the overwhelming quantity of case material that such a book must marshal, it is inevitable that much of the text must consist of one-sentence case descriptions. This creates a danger that the purely

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12. See F. R. Leavis, *The Great Tradition*, Anchor Books, p. 297.

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factual inferences on which most of the cases are based may take on the appearance of immutable principles of law. Mr. Horsley is aware of this danger. He warns the reader that:

Many of the issues of fact that arise can only be determined by the application of sound common sense—the deliberations of “twelve good men and true”—and stress has been laid time and again on the limited value as precedents of factual negligence cases.<sup>1</sup>

and he has generally exercised great care in summarizing cases to avoid giving fact the appearance of law. Nevertheless, passages like the following occasionally occur:

By-laws may often prohibit bicyclists from riding on sidewalks, and in such a case a motorist crossing the sidewalk will not be bound to anticipate the presence of a person on the sidewalk approaching the crossing at a greater speed than a pedestrian's: *Nugent v. Gunn* (1919), 16 O.W.N. 145 . . .<sup>2</sup>

Another drawback to the statute-annotation approach to text writing is that it provides little opportunity for discussion of the general principles which underlie the masses of detailed examples. Mr. Horsley has attempted to overcome this difficulty by providing special sections on such topics as the general principles of negligence, the constitutional validity of the Act, and the relation between a breach of the Act and negligence. Unfortunately, these sections, though lucidly written, are too brief to be wholly satisfactory. For example, the complex problem of determining whether a breach of the Act may be treated as evidence of negligence, which seems to me to be basic to much of the material in the book, is dealt with quite superficially in two pages.

Occasionally the desire for brevity has led the author to make misleading statements. He says, for example:

Where an emergency arises, it is not necessary for a driver to possess extraordinary skill, presence of mind, poise or self-control, and *his failure to act as an ordinary person in an emergency is not held to be negligence.*<sup>3</sup>

In fact, of course, a driver's conduct is always judged by the “reasonable man” standard, whether an emergency exists or not; but in an emergency the degree of prudence expected of the reasonable man is lower than when he has time to ponder his conduct carefully before acting. Again, we read:

Where *res ipsa loquitur* has been applied to establish a *prima facie* case, the defendant is required to produce *an explanation of how the accident happened* or otherwise to negate the existence of negligence on his part.<sup>4</sup>

No reference is made to the fact that there is considerable authority for the view that the defendant need not explain the accident, but “need

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1. P. iii.

2. P. 56-7.

3. P. 380. *Emphasis added.*

4. P. 411. *Emphasis added.*

only aim at giving some reasonable explanation how the accident *may* have occurred without his negligence . . .”<sup>5</sup>

On the whole, however, Mr. Horsley has been successful in overcoming the weaknesses characteristic of the format he chose to use. He has selected cases wisely, summarized them accurately, and in some sections synthesized them brilliantly. To increase the usefulness of the book outside Ontario (and, indeed, inside as well) he has included many references to the statutes and cases of other provinces, including a penetrating discussion of the “gross negligence for guest passengers” cases, which have no counterpart in Ontario at all. He has not hesitated to offer criticism when appropriate. Best of all, Mr. Horsley writes well. The profession will be pleased with his book.

R. D. GIBSON\*

## THE CANADIAN YEARBOOK OF INTERNATIONAL LAW

Edited by C. B. BOURNE. Vancouver: University of British Columbia.  
Volume I, 1963. Pp. 325.

This is the first of what, as the name indicates, is intended to be an annual publication under the auspices of the Canadian branch of the International Law Association. All the members of the Board of Editors and the authors of the articles in this first volume are distinguished jurists on the law faculties of Canadian universities.

The work consists of eight articles (six in English, two in French), notes and comments, and reviews of recent books on international law or international affairs.

Professor Maxwell Cohen, Director of the Institute of Air and Space Law at McGill University, in an article entitled “Some Main Directions of International Law: A Canadian Perspective”, indicates certain areas of international affairs in which rapidly changing social and political conditions, scientific advances and industrial development call for modifications of and innovations in the rules of international law. He presents a challenge to Canadian statesmen, administrators and jurists by pointing out that by reason of our bi-cultural inheritance, our geographical situation and our varied experience, Canadians are qualified to make valuable contributions towards the solutions of many pressing problems. We have learned lessons from our participation in the management of boundary and trans-boundary lakes and rivers, such as the St. Lawrence Seaway and the Columbia River, that may serve as a guide in issues arising on the Congo, the Niger and the Nile. We have been parties to measures for the

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5. Fleming, *The Law of Torts*, 2nd. ed., p. 278.

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