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Cases and Materials on the Law of Torts (Book Review)

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enforcement; special proceedings; and errors and appeal, afford a reasonable division of subjects for study. The instant table of contents shows an orderly talent for arrangement substantially in accordance with the above order and an ability to call attention in logical sequence to the more important and more often used sections of the Civil Practice Act and the Rules of Civil Practice.

The book contains a great deal of valuable practical information in convenient form, even to the point of suggesting a last question to be asked jurors on the *voir dire* examination. Professor Prashker proves himself ready to take a position and state his views on procedural matters which he believes "have become encrusted with outworn technicalities" in treating with such subjects as the rule of abbreviated pleading of performance of condition. He attacks such propositions in language which is keen and incisive and demonstrates beyond doubt that he has a scholarly and profound knowledge of his subject.

The text clearly shows that it was written by a skilled and experienced craftsman and the general treatment of the subject matter indicates careful and painstaking research. In conclusion, it is the opinion of this reviewer that the book exhibits a great degree of industry and merits high commendation.

JAMES B. M. McNALLY.*

CASES AND MATERIALS ON THE LAW OF TORTS. Harold F. McNiece. Brooklyn: St. John's University Press, 1947. Pp. xxi, 950, index.

The latest *Cases and Materials on the Law of Torts* was published this fall by the youngest scholarly instructor, Harold F. McNiece, Esq., of St. John's University School of Law. Like the bride's trousseau, it has something old, something new, something borrowed, and something blue. It was intended primarily to meet the problems of a very special and honorable type of student. One matured beyond his actual age; humbly grateful that he was able to perform his greatest duty as a citizen of the United States and now honorably discharged from the strict military discipline lasting from months to years of service. A student who was, at last, free to pursue or renew his longed-for profession of law. Some would come to acquire their legal knowledge coupled with the responsibilities and obligations of spouse and family. All would be incumbered with shortages of food and home. Definitely it appeared to Mr. McNiece that mere outlines and summaries would not suffice. It would not do to learn arbitrary principles of proximate and remote cause. If one was to have any degree of success he must do more than to explain the conduct of the "reasonable prudent man." Mr. McNiece succinctly states his appreciation of the problems in his preface: "Tort law and economics have become

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in many respects the concavity and convexity of the single lens of social policy."

This essential interdependence of law and economics prompted his acquiring the cooperation of John V. Thornton, Chairman of the Economics Department of Albertus Magnus College and member of the Economics Faculty at Yale University. This was something *very new*, almost revolutionary in text book work. They together worked and collected something old, including a large number of the older English cases as indicative of the types of policy decisions during the primary formative period of our law. Something new, they added the groups of cases which exemplified both legal issues and socio-economic policy. Cases from many economic and political cultures, from mercantilism and *laissez-faire* through paternalism and socialism, and thus laying the foundation for a clear and correct understanding of the everchanging judicial process.

Borrowing from the Restatement of the Law, each chapter closes with "Problems." "Have you understood the principles we studied in this chapter?" Briefly the decision and citation are given. "If this problem is *not* as you understand the law, might I suggest further reference to the official reports." Just how could this type of student trained as he was, permit the statement to go unchallenged? For example, on page 80 at the close of Chapter 2, problem 7 states:

"A claims that B maliciously and without probable cause gave false information to immigration officials which caused them to deport A for alleged violations of the immigration laws.

Held: The proceedings are not judicial and no cause of action for a *malicious prosecution* is stated.

(*Al Raschid v. News Syndicate Co.*, 265 N. Y. 1, 191 N. E. 713 [1934].)"

Hundreds of similar problems are included throughout the book. No teacher would doubt the method is effective in arousing the inquiring mind.

Something blue? Oh! Yes. We are grateful that the book is a post war product. The paper is excellent, the type is clear and distinct—and the color of the cover is—a beautiful blue.

W. TAPLEY.*

AVIATION ACCIDENT LAW. By Charles S. Rhyne. Columbia Law Book Co.: Washington, 1947. Pp. 315, index.

Here is a book which seeks to fill a need long felt by students and practitioners of aviation law. It is the initial treatise synthesizing all reported decisions on aircraft accident law into a logical and compact framework. The

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