

BOOK REVIEWS

A CASEBOOK ON TORT, by Tony Weir, Fellow of Trinity College, Cambridge, London. Sweet & Maxwell Ltd, 1967 xxiii and 519 pp. including index). New Zealand price £3.17s.6d. (\$7.75).

A Casebook on Tort by Tony Weir is an interesting addition to the increasing number of casebooks published in the Commonwealth. It will undoubtedly be of great value to English students but may be of less permanent value in New Zealand and Australia where students are already very well served with "Cases on Torts" by Morrison, Morris and Sharwood, and where the Canadian book by Wright is commonly used. Nevertheless the new book has its points. Temporarily at least it is very up to date for it includes *Commissioner of Railways v. Quinlan* [1964] A.C.1054, *Rookes v. Barnard* [1964] A.C.1129, *Hedley Byrne v. Heller & Partners* [1964] A.C.465, *I.C.I. v. Shatwell* [1965] A.C.656, *Doughty v. Turner Manufacturing Company* [1964] 1 Q.B.518, and several other very recent cases which are not yet available in other casebooks. This book is not designed to provide a complete study of the law of torts but rather to be used in conjunction with one of the standard textbooks. The extracts from the cases are judiciously chosen and are long enough to give students a fair indication of the full facts of the case without loading the book with unnecessary and confusing detail. There are also a few extracts from articles in the academic journals and the relevant sections from various statutes. Most sections of the book have a fresh and stimulating introduction by the author and very many of the cases are followed by a list of questions arising out of the case and acute and frequently amusing notes. Some of these notes and questions give an impression of being "clever, clever", but Mr Weir disarmingly comments in his preface that his notes are "occasionally extreme in the hope of stimulating a response and of dispelling the aura of inevitability which the judgments themselves properly exhale". This reviewer for one found Mr Weir's method justifiable. Even many of his more facetious comments are thought-provoking and they will certainly obtain the interest of students. I particularly like the story about Sir Arthur Pinero on p.391 and Dean Prosser's story about the widow Murphy on p.233. The notes are linked together more coherently than might appear at first sight. A good example can be found at p.416 where his comments on warranties in relation to misrepresentation refer back to his comments on warranties in relation to the principle in *Donoghue v. Stevenson* [1932] A.C.562, on p.19.

Some of Mr Weir's classifications are odd. His chapter on "Duty" is subdivided into cases on (*inter alia*) "Injury without impact", which includes *Best v. Samuel Fox & Co.* [1952] A.C.716, and *Bourhill v. Young* [1943] A.C.92. It is doubtful whether it is significant to relate loss of consortium with shock in such a way, and the oddity is compounded by the fact that the only other quotation in this subsection is from the Fatal Accidents Act 1846! Three more diverse examples of injury without impact could scarcely be found. Three other headings in the chapter are "The Meritorious Plaintiff", "The Inactive Defend-

ant” and “Low Duties”. These are illustrated respectively by *Baker v. T. E. Hopkins & Son* [1959] 1 W.L.R.966, *East Suffolk Rivers Catchment Board v. Kent* [1941] A.C.74, and *Commissioner of Railways v. Quinlan*. Once again Mr Weir seems to be straining for striking headings without much significance. However, students can scarcely expect in a book of this kind to find logical classifications. They would tend rather to use the book as a contemporary pocket library and to read separate cases with their introductions and notes. For a time at least Mr Weir’s book will be a very valuable and stimulating tool for teaching.

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A SOCIAL HISTORY OF ENGLISH LAW, by Alan Harding. London. Penguin Books Ltd., 1966. 503pp. (including index). New Zealand price \$1.

“There have seen some heroic attempts to describe the growth of English law in an historical way”, says the author, “and beside them this book is small fry indeed”. He does himself less than justice. The reader scarcely needs the impressive bibliography to persuade him that Mr Harding has brought to his task a considerable degree of scholarship. The ease with which he handles his material is better proof of that. More important for the Legal System student this modest volume is readable, stimulating and from first page to last steadily holds the interest. This is not to suggest it is a book for the layman, for it presupposes a knowledge of legal terminology and a familiarity with English history that would seem to be very much the exception among students commencing a law course.

Most legal histories are of necessity social histories in so far as the laws are explained by reference to the social problems that called them into being; but Mr Harding’s contribution is unique in that he not only makes this the central theme of his work but goes on a stage further to discuss the influence of the law on the political and social life of the times.

To encompass the whole history of English law, a thousand years of it, within the covers of a five hundred page volume, is a formidable task, calling for a sophisticated process of selection and distillation, a process which is likely to produce a distillate so concentrated as to be indigestible. Consider, for instance, this passage (p.60) describing the work of the General Eyre:

At the beginning of the eyre, while the presenting juries were away collecting answers to the list of questions (the ‘articles of the eyre’) given to them on the opening day, the justices heard the civil pleas. When the juries returned with their true answers (*verdicta*) the hearing of the crown pleas could begin.

An astonishing amount of information has been crammed into these five lines, and yet the picture they paint is clearer than the frequently vague impressions left by more discursive writers.

Another feature that gives Mr Harding’s work its distinctly attractive flavour is the skill with which he has interpolated extracts from original sources, as witness this example (pp.126-7) dealing with the origin of the present day jury.