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the vital importance of establishing "a uniform penal code between states" providing for a court with jurisdiction over such crimes as the "making of a modern war which is not required by absolute necessity or self defense" and the taking of reprisal actions against innocent people.³⁹ But lacking such permanent international machinery, the danger of future war crimes trials of victors over vanquished is not that the precedents of Nürnberg will be followed but that they will not be followed.

*Drexel A. Sprecher**

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"... they studiously avoid entering into the merits of the cause but are loud, violent, and tedious in dwelling upon all circumstances which are not to the purpose. For instance, in the case already mentioned, they never desire to know what claim or title my adversary hath to my cow; but whether the said cow were red or black, her horns long or short, whether the field I graze her in be round or square, whether she be milked at home or abroad, what diseases she is subject to, and the like; after which they consult precedents. . . ." A portion of Gulliver's explanation of the English legal system to the chief of the Houyhnhnms.

First year law students, not having even the governmental experience of the chief of the Houyhnhnms, have more difficulty in understanding the devious methods of the courts in expounding and administering the law of torts. Professor Morris has done an excellent job of explaining the classic torts and the trial process by means of parable and policy just as did Gulliver, but without the satire, thereby accomplishing his primary purpose of aiding his colleagues in the assignment of outside reading for beginning students as well as his secondary object of benefiting the practicing advocate. With these as his public the author practicably solves the perennial problem of how much emphasis

39. Address to the Sixth International Congress of Penal Law on "An International Code for the Punishment of War Crimes," October 3, 1953, translation reproduced in full in 28 St. John's L. Rev. 1 (1953).

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should be given to procedure. The core chapters may best be described as a series of essays on the traditional types of torts (excepting only invasions of personal property, which, it may be noted in passing was selected as the most apt by Gulliver to enlighten *his* pupil), with an introduction on the lawyer's role, the student's approach, the nature of policy, and a closing chapter on personal injury litigation, the latter representing a departure in method of treatment from those preceding. Sufficient historical background is given the subjects. The most engaging feature is the policy approach to the denominated central problem of most torts cases: Should the plaintiff or defendant bear a loss? To this query is given the answering axiomatic formula: A loss should lie where it happened to fall unless some affirmative public good will result from shifting it. The enunciation of policy is not abstruse and erudite in terms of unproven values or specific sociological and economic theories, but rather consists in immediate deductions from trends implicit in the outstanding cases. Properly, most attention is given to negligence, which continues to lead the field in fluid development. No attempt is made to create a new vocabulary. Instead, the old meaningless matrices of the law are accepted, and significant values written into them insofar as possible by means of simple illustrations and the interpretive process of the law in action, with the forewarning that many inarticulate but salient factors of which the advocate becomes aware are not necessarily comprehended in any given case.

Professor Morris accurately and modestly points out in the preface that the subjects are not exhaustive, that the work is not intended as a search book and that many of the cases are merely illustrative, even hypothetical. Considering the purposes, these are not weakness but the strength of attainment. What he does not say is that while the book teaches at the risk of unfootnoted proof, nevertheless without any poignant dogmatism its incisive analyses and simple cogency should give it a tremendously authoritative force.

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