aids but would prove weak if used in isolation or as a primary source for research. If the user realizes these limitations, the book would prove a useful tool. All in all, Mr. Smith has succeeded in his goal to ". . . place a directory arrow to the bowstring of principle".[2]

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[2]Smith, at iv.

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Tort Liability in a Collective Bargaining Regime, Susan A. Tacon, Toronto: Butterworths, 1980. Pp. *xvii*, 148. $30.00 (cloth).

Intending readers of this slim tome should be chary of expectations aroused by its expansive title. The volume takes aim not at a general discussion of tort liability in a labour setting but rather, through a presentation of judicial responses to picketing, attempts to focus attention on the argued inappropriateness of judicial intervention in the collective bargaining process. As the authoress notes, "The thesis of this book is that the courts are the wrong forum to deal with industrial conflict."[1] The old adage about the book and its cover would appear to apply to this volume and its title. With the more limited purpose in mind, one may then proceed to appreciate the tempered focus of the work.

Picketing has been chosen by the authoress as the analytical category, in which to assess judicial response to collective bargaining, in view "of its high visibility, incidence and involvement of third parties."[2] But as is pointed out, peaceful picketing is more than the mere visible manifestation of industrial unrest. It is also the exercise by individuals of freedom of speech or expression though, in an industrial context, this freedom has generally been given short shrift. Rather it has been the employer's commercial freedom (read "right") to trade which the courts have protected as ascendent in balancing interest of employers and their striking employees. Commencing with the historical judicial common law repugnance to combinations and picketing (watching and besetting), the

[1]Tacon, at 12.

[2]*Ibid.*, at v.

authoress proceeds to present the "judicial arsenal" of economic tort doctrines such as civil conspiracy, inducing breach of contract and intimidation or wrongful interference with trade regulations which, with breaches of either statute law or the collective agreement and conduct such as secondary picketing, have been used by courts to expand the concept of "unlawfulness" in order to taint the validity of the picketing or strike action and thereby enjoin such activity. An analysis is presented, in succeeding chapters at the various stages of industrial relations, from the recognition and organizational picketing through negotiation strikes leading to the collective agreement and finally during the currency of the collective agreement itself. This condemnation by the finding of unlawfulness and resultant judicial granting of relief is presented in part as the failure of courts to appreciate the significance of picketing as part of the "dynamic process" of industrial relations. Rather, through such institutional handicaps as *stare decisis,* the four corners rule of statutory interpretation and the compartmentalization of activity to fit established tort definitions, it is argued that the courts have rendered themselves incapable of proper appreciation and are left to provide band-aid intervention instead of true dispute resolution.

Of special value is the contrasting of judicial response to that in similar situations by the "model" administrative board — the British Columbia Labour Relations Board. The authoress has clearly demonstrated by example and careful analysis of the decision making process, that the Administrative Board is the more suitable form for labour dispute resolution. But is not Archimedes and his lever instructive. The analysis of the authoress is really a plea for legislative reform. If legislatures have been content to allow courts to proceed with the only tools available to them, it surely is not too erroneous to allow courts a pragmatic rather than strict legal interpretation in application of tort doctrines. Of course, that is not the point. The Legislatures have established administrative forums with jurisdiction to adequately deal with labour relations dispute settlement. The courts have not been great respectors of that jurisdiction.[3] Again, this is a plea for legislative reform.

The proposition of the authoress is one made many times before. Of value principally in her general analysis is the stark presentation of a contrasting interventions by the judicial process and an adequately constituted administrative board.

Denigrating the usefulness of the work, however, are serious style and research flaws. It must be noted that *Tort Liability in a Collective Bargaining Regime* was originally prepared in completion of requirements for a LL.M. degree at Osgoode Hall Law School of York University.

[3]For an updated Federal sphere judicial approach see the judgment of Pratte J. in *Government of Canada and Attorney General of Canada* v. *National Association of Broadcast Employees and Technicans et al.* (1979), 31 N.R. 19 (Fed. C.A.).

However, the style which the authoress has chosen for that purpose is not well suited to the needs of her readership. Misplaced and undue reliance on footnotes at the expense of complete textual body may be suitable for a thesis but detracts greatly in allowing the reader to adequately follow arguments presented in the text. Thus, in discussing the decision in *Williams* v. *Aristocratic Restaurants,*[4] though a familiar case to most, the text would have been much more readable with a brief presentation of the factual situation rather than a footnote reference to a secondary source for the facts. Again, on page 20, one reads the sentence "Further, the majority interpreted the phrase no 'other person' in s. 3(2) without reference to the equivalent phrase 'anyone authorized by the trade union' in s. 3(1)". Where is ss. 3(1) and 3(2)? — In an unreferred to footnote on the previous page. Such choppy use of footnotes seriously detracts from the work.

Nota bene the appearance of an insightful research flaw. The authoress readily recognizes in the preface her indebtedness to the earlier work of I. M. Christie, *The Liability of Strikers in the Law of Tort.*[5] However, her indebtedness to the earlier work is unforgiveable when it lead to as glaring an error as found on pages 16, 17 and 18 wherein the authoress repeatedly refers to s. 366 of the Criminal Code as embodying the 1875 United Kingdom *Conspiracy and Protection of Property Act.*[6] Unfortunately for the authoress, revision of the *Criminal Code*[7] entailed a renumbering of s. 366 to the now current s. 381. Therefore, her continuous reference to the "now s. 366 of the Criminal Code" reveals an error in research method which is most unforgiveable as it misdirects the unfortunate reader.

Regrettably, the essence of *Tort Liability in the Collective Bargaining Regime* is to provide essentially an updated reference source to the earlier Christie work. Standing alone, this volume is not adequate. However, the reader with a solid foundation in the Christie text can find limited utility in the updated version as a quick reference source to labour cases in the last decade.

JOHN P. McEVOY*

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[4][1951] S.C.R. 762.

[5]Kingston: Industrial Relations Centre, Queen's University, 1967.

[6]1875, 38 & 39 Vict., c. 86 (U.K.).

[7]R.S.C. 1970, c. C-34.

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