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Book Reviews

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Law And Psychology In Conflict. By James Marshall. The Bobbs-Merrill Company, Inc., Indianapolis: 1966. Pp. 119, including index.

> John Dewey, a worshiper in the temple of science, said "the future of our civilization depends on the widening spread and deepening hold of the scientific habit of mind." But perhaps there is more truth in an old wisecrack of Oliver Wendell Holmes: "Science is a good piece of furniture for a man to have in an upper chamber provided he has common sense on the ground floor."[1]

After a couple of hectic years in charge of a first grade classroom, a teacher once told me that everything she had learned in school about teaching methods was either obvious, irrelevant, or wrong. It would be unfair to dismiss this book in these terms, but the temptation exists. There are three chapters and a brief conclusion. Chapter I is largely obvious, Chapter II is mostly irrelevant, and the conclusion is probably wrong. I have nothing much against Chapter III.

The argument in Chapter I is unlikely to startle any lawyer. It is that testimonial evidence is often inaccurate, quite apart from the sincerity of the witness, because of faults in his perception, memory, or powers of expression.[2] Such dangers provide many of the standard reasons given for the right to cross-examine a witness. Law students are pretty sophisticated about perception errors; almost every year I am asked by some member of my Evidence class whether I am going to repeat the famous psychology experiment in which the class is surprised by a staged fight in the classroom, and then asked to report accurately what happened. (There are always great disparities in the accounts.)

But, while in a general way lawyers know about these dangers, Chapter I is valuable in giving a detailed account of the kinds of errors which can exist, with supporting references for further investigation. The author, a distinguished member of the New York bar, also relates the errors in a practical way to specific problems in administering the rules of evidence. For example, he points out the danger of permitting the memory of a witness to be refreshed by an inaccurate newspaper account of the event in question, and supports this with a report of a psychological experiment.

He illustrates the tendency of a witness to interpret what he sees in accordance with his preconceptions and expectations by psychological

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1. STANDEN, SCIENCE IS A SACRED COW 35 (1950).

2. This topic is commonplace as an introduction to the study of the problems of testimonial evidence. See, *e.g.*, the two page text note in MAGUIRE, WEINSTEIN, CHADBURN & MANSFIELD, CASES AND MATERIALS ON EVIDENCE 200–02 (5th ed. 1965), giving many references for further investigation, mostly in books or periodicals written for lawyers.

experiments with the famous Ames room. To the viewer, the room appears to be an ordinary room, in the shape of a rectangular solid, with the wall at which the observer is placed removed. There are shapes on the other three walls which appear to represent ordinary rectangular doors and windows. Various strange things appear to happen in the room. If persons of equal height are placed at each of the rear corners of the room, the one on the right will appear to the observer to be a giant — his head almost touching the ceiling — while the one on the left will seem very small. If they exchange positions, the midget becomes the giant, and the giant the midget. The explanation is that the window and door outlines and other features of the room are in fact of irregular shape, with, for example, the right edge of the rear wall being much closer to the observer than the left edge, and the floor and ceiling of the room sloping towards each other at that edge. But from the carefully chosen perspective of the observer, the room appears normal. The right edge of the rear wall, which is shorter and closer to the observer than the left edge, deceives the eye and brain, which are used to seeing and judging rectangular rooms, into concluding that the figures placed in it are distorted rather than the room itself. Even an observer who knows the trick shape of the room "sees" the room as ordinary and the figures as distorted; only by conscious effort can he interpret the figures as being the same size. (It has been reported that when a wife sees her husband in the Ames room, she sees him correctly and the room as distorted. Apparently spousal conditioning overcomes architectural conditioning.[3])

In Chapter III, the author reviews the psychological factors which may be in operation in the individual trier of fact's interpretation of the evidence, and in the interaction in the jury room. The common tendency to think in a way which will not do violence to preconceptions, to stereotype people and situations, and to come to agreement with others, may well produce distorted results.

If there are a number of apt illustrations of the pitfalls involved in presentation of evidence at trials in Chapters I and III, Chapter II is much less satisfactory. Called "Some Vagaries of Recall," it is a lengthy report of an experiment, in which a brief film strip was shown to audiences of police trainees, law students, and people attending a settlement house. The film showed a scene which might have been interpreted as an attempted kidnapping of a baby from its carriage by a young man. Immediately after seeing the film, or a week later, or at both times, under varying conditions,[4] the viewers were tested for memory of the events seen and heard at the showing. The author and his psychologist collaborators draw such conclusions as that the better educated subjects and the more "punitive" subjects tended to recall more items correctly and to draw more inferences than the others, that

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3. See GREGORY, EYE AND BRAIN: THE PSYCHOLOGY OF SEEING 180 (1966).

4. For example, some members of the audience were told that the young man had been charged with attempted kidnapping, and of this group, some were told that he had previously been convicted of molesting children. Others were told that they were to be witnesses for the defense. MARSHALL, LAW AND PSYCHOLOGY IN CONFLICT ch. II (1966).

all witnesses recalled a relatively small proportion of the possible items in the film (but were apt to do better when a direct question was asked as to the existence of an item not spontaneously recalled), that all groups "recalled" some things which had not in fact happened, that the persons being tested tended to do better when urged by a "status-figure" (law professor or police captain) to try hard, and that correct recall tended to diminish with the passage of time.

Few of these conclusions are surprising; as is true in many excellent scientific experiments, the mouse which emerges from this ponderous experimental mountain is not even particularly interesting. But, while the general conclusions seem, as a matter of common sense, likely to be true, the method of reaching them exhibits weaknesses typical of those likely to arise in any attempt to apply the experimental method to the problems of social science, including those of the legal process.

Humpty Dumpty insisted that, when he used a word, it meant exactly what he chose it to mean, neither more nor less, even if his choice did not accord entirely with usage. This point of view is a dangerous one for the writers of questionnaires. At one point some of Marshall's experimental subjects were asked whether the young man in the film had sideburns, a question dealing with what the author describes at page 57 as a "perfectly clear and straightforward characteristic" of the person. In fact, frames from the motion picture, reproduced in the book, show that the subject's hair beneath the temples descended to a point near the lower end of the tragus.[5] This is somewhat lower than more conservative modern styles, but reasonable men might differ as to the presence of "sideburns," and at least one standard definition of that word is inapplicable to hair style shown in the film.[6] My analysis is confirmed by a highly unscientific sampling of some of my colleagues on the law faculty. About half thought the hair style I have described was "sideburns." The other half was divided between those who thought that the term was ambiguous and might be used for anything from the style shown in the book to the lower hairline of the traditional sideburn, and those who assumed that sideburn still meant what is used to mean in the good old days of General Burnside.

This example is trivial, as far as its effect on the conclusions drawn by Marshall is concerned, but it illustrates a real problem. You cannot put the "sideburns" question to a typical population sample in terms of the relative positions of the hairline and tragus. If you ask the sample to draw pictures of the hairline, you have problems of interpreting and classifying the answer as "right" or "wrong." You might do better with multiple choice pictures on the test, at least in this case, but the shadings or meanings in the imprecise terms we use in everyday language produce problems in social investigation which are hardly significant for the traditional experimenters in physics or chemistry, with their more precise symbols.

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5. The tragus is that bit of cartilage which protrudes from the face, just above and forward of the ear lobe, and partially covers the entrance to ear canal.

6. THE AMERICAN COLLEGE DICTIONARY (1958) defines sideburns as "short whiskers extending from the hairline to below the ears and worn with an unbearded chin."

Another problem is that the preconceptions and expectations of the experimenters are difficult to banish from the experiment, quite apart from problems of simple definition. For example, it is asserted that there were 115 items in the motion picture to be recalled, and it is clear from the context that the writer does not mean merely that questions were asked about 115 items, but rather that 115 *possible* items to report existed.[7] This is clearly an arbitrary assumption of the experimenters. Is the picket fence shown in the film one item, or is each picket a separate item?

The experimenters' assumptions are not limited to interpretations of the facts, but extend to values. They purport to compare the "punitiveness" of the three classes of experimental subjects, according to the subjects' selection of appropriate penalties for ten crimes, ranging from "murder" to "gambling." For each crime, the choice presented ranged from psychiatric treatment or fine, through terms of imprisonment, to life imprisonment and the death penalty. Psychiatric treatment was regarded by the experimenters as less punitive than a fine or imprisonment, life imprisonment as less punitive than the death penalty. While most of us would agree with these judgments, surely there are those who would not, and some of the minority might have been among the experimental subjects.[8]

Furthermore, alternative explanations appear possible as to some of the data which the experimenters regard as showing punitiveness. We are told that for all crimes investigated, taken together, about 67% of the police subjects, 41% of the law students, and 32% of the settlement house people ranked above the median for all groups on the "punitive" scale.[9] It may well be that law students tend to be less punitive than police trainees and more punitive than settlement house people. But if you ask a police trainee the appropriate punishment for murder, he may think primarily of the felony-murders and premeditated murders which are apt to loom largest in his limited professional experience. The law student may recall the broader class of common law murders, including some acts traditionally punished less severely than those just mentioned. The man from the settlement house may have such a hazy idea of murder that he includes in his concept what would actually be manslaughter or only tort. Such differing ideas might tend to produce differing views of the appropriate penalty, consistent with the results reported.

Finally, one wonders how "honest" the subjects were. They knew they were being tested. Might they not sometimes have given the answers that they thought were expected of them, no matter what their private views were? Does a police trainee consider a stiff penalty because his training leads him to believe that a policeman should reflect

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7. MARSHALL, *op. cit. supra* note 4, at 44, 54 (1966).

8. It should be said that to the extent that the experiment is only interested in the consequence of the subjects' attitudes, the fact that some subjects may regard life imprisonment as a fate worse than death is irrelevant; as long as we know their punishment preferences, we can impose our own view of degrees of punitiveness upon them without distorting the external effect of their attitudes, whatever may be said for the validity of our scale of values.

9. MARSHALL, *op. cit. supra* note 7, at 74.

a stern attitude towards crime? If so, he can vote that way, secure in his support of the principles of his calling, but knowing that nobody is actually going to be punished more severely on account of his response.

Perhaps these difficulties have little or no effect on the validity of the particular conclusions of the author. But they are serious insofar as they point to endemic problems for the experimenter in law and social science. If the experimenters stick to what is precisely measurable and definable in human response, their results can often be no better than trivial; if they make simplifying assumptions about values, meanings, and responses, these may be inappropriate or wrong, and their conclusions may therefore be misleading. In his concluding remarks, the author attributes the resistance of lawyers to a partnership with psychology largely to the conservative natural law roots of the legal profession. Perhaps the resistance is due as much to suspicion of the overinflated claims which sometimes emerge from the idolizers of scientific and quasi-scientific method.

What can be expected from the experimental method of the natural sciences when applied to a field like the law? The method is likely to begin with a conjecture about how certain things are, or how they behave. Some kind of observation is contrived to test the conjecture; it usually consists of a series of experiments under controlled conditions. Experimental results may prove the conjecture wrong. The hypothesis that every hen's egg contains one and only one yolk is disposed of by finding one double-yolked egg. On the other hand, the experiments may tend to support the hypothesis, although a general, affirmative proposition can never be proved unless all members of the class can be tested. A hundred broken eggs, all with single yolks, can not be conclusive evidence of the truth of our conjecture. A very well tested and still possible conjecture is a theory, which with relatively little risk may be called a scientific law.

How much of what is grist for the mills of justice is subject to this kind of controlled experiment? A very large number of the problems of the law are problems of value and policy. No experiment can tell us whether it is desirable to abolish billboards by law, or a good idea to exclude hearsay evidence in court. The most that experiments can tell us is what the facts we think relevant to our value judgments are, or which conjectures about the way in which things or people behave are very probably true. We might, at least in theory, learn that billboards increase sales of advertised goods, or increase traffic accidents, or that hearsay evidence is less likely than eyewitness testimony to report events accurately. But difficult policy questions remain.

And in practice, experiment can often not even tell us what the relevant facts and principles of conduct are. How would we really establish convincingly by experiment that billboards increase traffic accidents? If we could show a high statistical correlation between billboards and accidents, it might exist because advertisers tend to place billboards on heavily traveled roads, and accidents rise in proportion to traffic volume. Removing billboards from heavily traveled roads might not reduce accidents at all. And if we were permitted to remove billboards to test this conjecture, could we be sure that, if accidents

did decline, this was due to billboard removal rather than, say, improved weather conditions? It is very difficult to be sure that we have isolated the significant factor in social science experiments. It is easier in physics and chemistry. Also, human beings are less manageable for experimental purposes than chemicals.

Problems of definition, on which the validity of principles must rest, tend to be greater outside the natural sciences. Sulphur dioxide can be defined with relative ease and precision. But what is a billboard? Does the concept include a large sign painted on a barn wall? Those old Burma-Shave signs?

I do not mean to suggest that scientific method can tell the lawyer nothing of value. The difficulties inherent in experimenting with people can sometimes be reduced to a point at which scientific investigation produces answers which carry a high degree of conviction. The author suggests some fruitful inquiries, particularly in his third chapter. Certainly, the trial lawyer wants to know as much about the psychology of the juror as he can. Perhaps, particularly for certain kinds of disputes, the courtroom battle of the adversaries is less likely to guide the jury to an accurate conclusion than some other form of procedure. Perhaps, even, the proposition in the last sentence is capable of a moderately convincing demonstration by experiment.

To say that we cannot solve most of the professional problems of lawyers by experimentation, is not to say anything adverse either about experimentalism or law. Even the imperfect experiment can suggest a clue or strengthen an hypothesis. Wisdom, clear thinking, reflection, common sense, consultation, and dispute, when applied to the best understanding of the facts possible, can solve problems, either used alone, or with experimentation. In a way, it is too bad that the relatively straightforward method of science often does not work outside the realm of science. But perhaps on balance we should be glad that we have found problems which do not seem to yield to mechanical forms of resolution — glad that we can find no common measuring rod for all of the territories of man.

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Recovery For Wrongful Death. By Stuart M. Speiser. The Lawyers Co-Operative Publishing Company, Rochester, New York: 1966. Pp. 1094, including appendices and index. $28.50.

Any discussion of wrongful death actions must begin with the rule of *Baker v. Bolton, i.e.,* that "in a civil Court, the death of a human being could not be complained of as an injury."[1] As a consequence of Lord Ellenborough's decision ". . . it was more profitable for the defendant to kill the plaintiff than to scratch him, . . ."[2] In view of

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1. 1 Camp. 493, 170 Eng. Rep. 1033 (1808).
2. PROSSER, TORTS § 121, at 924 (3d ed. 1964).

this anomaly, the Fatal Accidents Act of 1846, or Lord Campbell's Act,[3] was passed in England, so as to allow the decedent's personal representative to maintain an action for the benefit of certain designated persons.

Notwithstanding earlier decisions to the contrary, the illogical rule of *Baker v. Bolton* was adopted by American Courts.[4] Legislatures in the United States reacted by following the example of Parliament. Every American state now has some statutory remedy for wrongful death. The statutes enacted vary in approach, in designation of beneficiaries and in the measure of damages. The author notes that legislatures were often concerned with the possibility of excessive awards in view of the difficulty in measuring the damages suffered as a result of wrongful deaths.[5] Therefore, maximum restrictions were imposed and, by 1893, twenty-two states had such limitations. Although there has been a steady decrease in the number of jurisdictions imposing restrictions, twelve state statutes still contained limitations in 1965.[6]

In addition to typical wrongful death statutes, many states including Maryland have enacted "survival" statutes.[7] Whereas a wrongful death act compensates either the survivors of the decedent or his estate for losses sustained by either, a survival statute generally permits recovery by the decedent's personal representative for damages which the decedent could have recovered had he continued to live. A number of states have also passed special legislation creating a special right or action where death is caused under specified circumstances.[8]

In this book, Mr. Speiser reviews the common law rule and the development of legislation relating to wrongful death. An appendix to his treatise contains the text of Lord Campbell's Act and the applicable statutory provisions of the United States, all fifty states, the District of Columbia, Puerto Rico and the Virgin Islands.

In addition, a separate appendix condenses these statutory provisions into basic categories: basis of liability, extent of liability, plaintiffs and beneficiaries, distribution and miscellaneous features. Because of the lack of uniformity of the statutory provisions relating to wrongful death, the appropriate law to be applied with respect to the death action is often crucial,[9] and, accordingly, the author has also included within

3. 9 & 10 Vict. c. 93.

4. PROSSER, *op. cit. supra* note 2, § 121; SPEISER, RECOVERY FOR WRONGFUL DEATH § 1:3 (1966).

5. *Id.* § 7:1.

6. *Id.* § 7:2.

7. *Id.* § 1:18 and §§ 14:1–14:7. MD. CODE ANN. art. 93, § 112 (Cum. Supp. 1966).

8. SPEISER, *op. cit. supra* note 4, § 1:12. See, *e.g.*, MD. CODE ANN. art. 101, §§ 44, 58 (1964). Section 44 gives an option to the dependents, where the employer deliberately causes the employee's death, to take under the Workmen's Compensation Act or sue outside of the Act. Section 58 permits the dependents and the insurer to sue the third party responsible for the employee's death.

9. See, *e.g.*, Griffith v. United Air Lines, Inc., 416 Pa. 1, 203 A.2d 796 (1964), noted in 25 MD. L. REV. 238 (1965), involving a wrongful death action commenced in Pennsylvania, where the decedent was a Pennsylvania resident who boarded a plane in that state bound for Arizona and was killed in Colorado. If Colorado law was applied, the plaintiffs would not be entitled to recover loss of accumulated prospective earnings and would be limited to a rather nominal amount. The court rejected the law of the place of the wrong rule and applied the "center of gravity" test. Thus, the plaintiffs were able to take advantage of the more liberal Pennsylvania provisions.

his treatise a chapter on conflict of laws.[10] The appendices provide a ready source for comparison of the features of the various statutes which might apply to the particular factual situation presented to the practitioner.

Although legislation has emasculated the rule of *Baker v. Bolton,* the author notes that Lord Ellenborough's decision may still thwart the efforts of counsel representing beneficiaries of the decedent. Since the cause of action for wrongful death is created by statute, the basis of liability is limited by the language of the particular statute involved. Most states, including Maryland,[11] have incorporated the wording of Lord Campbell's Act into the wrongful death statute and have predicated liability upon the defendant's commission of a "wrongful act, neglect or default."[12] Clearly, this language encompasses common law torts committed by the defendant. However, as the author indicates, the statutes are ambiguous as to whether recovery should be allowed when an action is couched in terms of breach of contract[13] or breach of warranty.[14]

Early cases almost uniformly held that an action for wrongful death would not lie for either breach of contract or breach of warranty since the applicable statutory language did not specifically refer to such actions. These holdings confront modern courts with the choice of developing a common law right of action for wrongful deaths caused by breach of warranty or contract, and thus overruling *Baker v. Bolton,* or of construing the statutes to include such actions.

In the 1961 case of *Zostautas v. St. Anthony De Padua Hospital,*[15] the Supreme Court of Illinois was faced with the problem as to whether or not a cause of action was stated by the plaintiffs where they alleged the breach of a contract by the defendant doctor to provide medical services to the decedent. On the authority of *Baker v. Bolton,* the court held that the action could not be maintained. It should be noted in *dictum* that the court stated that a breach of contract constituted a "default" within the meaning of the applicable death statute. Nevertheless, the case demonstrates that Lord Ellenborough has not yet been put to rest.[16]

The author has purported to develop a comprehensive, impartial and modern treatise for wrongful death cases. The need for such a

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10. SPEISER, *op. cit. supra* note 4, §§ 13:1–13:12. The author is uniquely qualified in this area because of his practical experience in cases involving airline tragedies and his previous writing in that area. See SPEISER, PREPARATION MANUAL FOR AVIATION NEGLIGENCE CASES (1958).

11. MD. CODE ANN. art. 67, § 1 (Cum. Supp. 1966).

12. 2 HARPER & JAMES, TORTS §§ 24.1–24.7 (1956); PROSSER, *op. cit. supra* note 2, § 121; SPEISER, *op. cit. supra* note 4, §§ 1:8, 2:1 and Appendix A.

13. *Id.* § 2:10. See also HARPER & JAMES, *op. cit. supra* note 12, § 24.3; PROSSER, *op. cit. supra* note 2, § 121, at 925.

14. *Id.* § 2:11. See also HARPER & JAMES, *op. cit. supra* note 12, §§ 24.3, 28.21; PROSSER, *op. cit. supra* note 2, § 95, at 652.

15. 23 Ill. 2d 326, 178 N.E.2d 303 (1961).

16. There does not appear to be any express holding by the Maryland Court of Appeals as to whether breach of contract or breach of warranty actions are encompassed by the Maryland statute. However, in State v. Consolidated Gas, Electric, Light & Power Co., 146 Md. 390, 126 Atl. 105 (1924), the court's decision assumes that breach of warranty actions fit within the applicable language.

work is readily apparent to any practitioner involved in litigation of this nature. No comprehensive treatise on the subject has been written since 1912.[17] In relatively recent times, significant trends have appeared which have substantially changed the complexion of wrongful death actions.

Lord Campbell's Act gave the jury rather broad discretion in awarding damages since it provided for an award of "such damages as they may think would be proportioned to the injury." However, judicial construction of the Act restricted recovery to the "pecuniary loss" suffered by the beneficiaries.[18] A majority of the states have adopted the pecuniary loss requirement either by express provision or by judicial construction.[19] One of the most significant trends in this type of litigation has been with respect to the "pecuniary loss" requirement. Whereas most of the older cases limited the beneficiaries' recovery to provable loss of contributions from the decedent, modern cases allow losses based on other elements.

In *Davidson Transfer & Storage Co. v. State,*[20] the Court of Appeals reviewed prior Maryland authorities and stated:

> We think that properly interpreted, those authorities cannot be regarded as holding that in order to justify recovery there must be a direct showing that the origin of the loss is confined solely to pecuniary considerations, because it would scarcely be argued that upon the death of a parent a surviving infant child has not suffered a loss which in many instances includes intangibles for which there can be no compensation, and for which the law makes no attempt to compensate, but must define the loss for which compensation is given. This may appear in the loss of the benefits or advantages which the plaintiff might have expected to receive from the parent had not the life of the latter been suddenly ended. Such losses are therefore, because no other remedy for compensation exists, translated into pecuniary damages.

In addition to decisions such as *Davidson,* many courts have accepted evidence to establish "pecuniary loss" which previously would not have been considered. These decisions are a credit to the ingenuity of the bar in presenting the beneficiaries' claim within the framework of the restrictive concept of "pecuniary loss." Bearing in mind that the rule of *Baker v. Bolton* involved a husband's action for the death of his wife, decisions such as *Legare v. United States,*[21] illustrate the change in attitude by many courts. In *Legare,* the court awarded $98,838 damages to a husband as the "pecuniary loss" occasioned by the death of his wife on the basis of the "substitute housewife" concept.

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17. TIFFANY, DEATH BY WRONGFUL ACT (2d ed. 1913). The writer would not consider SCHREIBER, DAMAGES IN PERSONAL INJURY AND WRONGFUL DEATH CASES (1965), published by the Practicing Law Institute as a "comprehensive treatise" and does not believe that it purports to be one.

18. SPEISER, *op. cit. supra* note 4, § 3:1.

19. See, *e.g.,* Baltimore and Reisterstown Turnpike Road v. State, 71 Md. 573, 18 Atl. 884 (1889).

20. 180 Md. 63, 73, 22 A.2d 582, 587 (1941).

21. 195 F. Supp. 557 (S.D. Fla. 1961).

For the most part, Mr. Speiser has succeeded in his attempt and has provided the bar with a welcomed addition to any legal library. He has more than adequately discussed the aspects of liability, proper beneficiaries, damages, procedure, evidence, defenses and conflict of laws.[22] Moreover, the author has included in his treatise various charts and tables, jury instructions and separate appendices containing life expectancy tables and a check list of damage information, which is cross-referenced to the appropriate sections in the treatise. The bar as a whole will undoubtedly find these features of the treatise to be most helpful in preparing for the trial of wrongful death actions.

Although Mr. Speiser has achieved his primary purpose, one feature of the work detracts from the value of the remainder of his treatise. The author has selected a chapter entitled "Specific Situations" for inclusion in his volume.[23] In this chapter, Mr. Speiser sets forth hypothetical situations involving the death of a specific person with a specific beneficiary seeking to recover for that death. This particular portion of the volume laboriously demonstrates the manner in which the attorney representing the beneficiary should present his evidence in order to obtain what is commonly referred to as "full dollar value" for the client. For example, the author sets forth charts showing the value of a housewife to the surviving spouse. He then proceeds to set forth in question and answer form the proposed testimony of the surviving spouse and testimony from an employment specialist, professional home economist and family service agency expert to establish the "full dollar value" of the loss. In other sections of this chapter, Mr. Speiser, in addition to setting out expert testimony, has included detailed proposed exhibits to be referred to by the expert in his examination.

This particular chapter will undoubtedly be useful to the claimants' attorney; however, it subjects the balance of his efforts to charges of lack of objectivity. Primarily because of this chapter, the publisher has advertised the volume, not as a comprehensive treatise, but as a book to show the plaintiffs' attorney how to obtain "full dollar value" in wrongful death cases. This promotion does not do justice to the text as a whole. In the opinion of the writer, Mr. Speiser should have deleted this material from his treatise and published the same as a separate practice manual.

*Donald E. Sharpe**

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22. The actual organization selected by the author is: Introduction, Basis of Liability, Damages, Specific Situations, Defenses, Mitigation of Damages, Limitations on Death Damages, Computation and Adjustment, Excessive and Inadequate Damages, Classes of Beneficiaries, Practice and Procedure, Evidence, Conflict of Laws and Survival Statutes. The placement selected is not entirely satisfactory since the chapters relating to damages are interrupted by the chapter on defenses. It would also seem desirable to have the procedure section in closer proximity to the defense chapter since the author includes the defense of limitations within the procedure chapter. However, Mr. Speiser has provided the user with an adequate index which will overcome this minor difficulty and facilitate the beneficial use of the text.

23. SPEISER, *op. cit. supra* note 4, at 263–407.

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