

Book Reviews

Justices Hans Joachim Faller and Theodor Ritterspach prepared the decisions for translation. The overwhelmingly difficult and demanding task of actually translating them was carried out – in an excellent and indeed awe-inspiring manner – by I. Fraser, P. Aliferis, and D.C. Umbach.

The selection deserves wide dissemination and, no doubt, will become an indispensable research tool of a wide range of scholars. Court and publishers have begun a long overdue and unreservedly laudable project. Roman Herzog, then President of the Federal Constitutional Court and now President of the Federal Republic of Germany, writes in his Preface to the collection that “[i]n the future such decisions will be published on a continuing basis.” As four years have gone by since the publication of this initial compilation, I hope that his words have not been forgotten in the Court or with the publishers.

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Book Notes*

Parisi, Francesco. *Liability for Negligence and Judicial Discretion* (2nd ed.). International and Area Studies. Research Series, No. 82. Berkeley: University of California, 1992. Pp. xxiv, 443. Index.

Francesco Parisi wrote a book not for those who do law, but for those who love law: His treatise upon negligence and judicial discretion reaches back to Roman foundations (even back to Adam and Eve, p. 27) and ends with modern theories on fault and negligence. Parisi's work is historical, comparative and critical. It was and is a challenging book.

In the main the book is structured chronologically. After a short introduction the author describes the early roots of liability, starting with the biblical *lex talionis*. He then turns to Roman law, to its adoption in medieval civil law and to canon law. Part I ends with the sixteenth century,

stressing the achievements of Donellus (for whose ideas the author shows much sympathy (pp. 130-31)). Part II explains how natural lawyers dealt with the problem of fault and the difficulties in setting their ideas into the civil law codifications, that is the French Civil Code and the German BGB. In part III the author leaves the civil law systems and focuses on the development of modern common law, concentrating on its American form. When in part IV the reader is confronted with contemporary theories on negligence, he or she will look at them with much deeper, much “older” knowledge.

The strength of Parisi's work lies in his description of Roman law and in his ability to show its influence on the development of the common law of torts as well as of civil tort law systems. Even where no direct influence of Roman law is shown, the work gives us a clear view of the striking parallels legal systems develop when confronted with the problem of negligence. But Parisi's intention goes further than giving mere descriptions of other people's ideas. His deep insight into the subject enables him to evaluate and criticize the different concepts. In the end, the reader understands why the unsolved riddles of negligence are still unsolved and thus (particularly if he or she has a civil law background) will have a greater tolerance towards the judge's discretion in negligence cases.

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Deubner, Christian. *Deutsche Europapolitik: Von Maastricht nach Kerneuropa?* Baden-Baden: Nomos Verlagsgesellschaft, 1995. Pp. 217.

Whoever is interested in the EU “multiple speed”, “variable geometry”, “concentric circles” or “diversity” formulas will find in this book an analysis of all the flexibility answers written into the Maastricht Treaty. The issue is definitely seen through a German lense. The book should be considered as scholarly support of the famous position paper of CDU/CSU *Bundestagfraktion* of September 1 1994 which formally initiated

* Publication of a book note does not preclude subsequent fuller review