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Anderson, R.G. (2009) *P Cane and J Conaghan (eds.), New Oxford Companion to Law: Review.* Edinburgh Law Review, 13 (2). pp. 340-341. ISSN 1364-9809

<http://eprints.gla.ac.uk/37694/>

Deposited on: 02 April 2012

Reviews

EdinLR Vol 13 pp 340-341
DOI: 10.3366/E136498090900153X

THE NEW OXFORD COMPANION TO LAW. Ed by P Cane and J Conaghan

Oxford: Oxford University Press (www.oup.co.uk), 2008. lxxxiii + 1306pp. ISBN 9780199290543. £39.95.

“In the present era of specialisation,” wrote Lord Rodger of the original *Companion to Law*, published in 1980 and the sole work of David M Walker, “perhaps only Professor Walker would have dared to write what amounts to a mini-encyclopaedia of law, dealing not merely with English law, but Scots, Roman, Irish, American, German, French, Swiss, South African and many other systems besides” (A F Rodger, “Good companion?” (1981) 1 OJLS 257). The original *Companion* is a unique work. I would call it a classic—a mine of golden legality whose nuggets can be sourced elsewhere only with difficulty. And although, as Lord Rodger pointed out, there are impurities, idiosyncrasies or flaws, call them what you will, they are easily tolerated: the original *Companion* is a first port of call, not the terminus, on any voyage of obscure legal research.

If the original *Companion* was the product of a certain generation, so too is the *New Companion*. The *New Companion* is rather like New Labour. The approach has moved away from details (arbitrarily selected) to themes (still arbitrarily selected). The content is more broad-brush and, to this reviewer’s heathen palate, on occasion somewhat bland. But that may be an unfair criticism for a handsome volume intended for the non-lawyer. When (if) I pick up the *Oxford Companion to Cosmology* or the *Oxford Companion to Women’s Writing in the United States*, I might prefer a volume like that produced by Cane and Conaghan to the *Miscellany-at-Law* (without the wit) compiled by Walker.

But the *New Companion* may still be an occasion for a Scottish lament. The original *Companion* is an important repository (a good Walker-word) of little-known details of Scots law, and many other legal systems besides. The editors of the *New Companion*, in the Preface, accept that “‘Anglo-centrism’ is disrespectful and can be seriously misleading ... However lawyers are typically expert in the law of only one jurisdiction and we have not always been able to ensure that the relevant differences between the laws of the various UK jurisdictions have been recorded.” Where Scots law was perhaps over-represented in the original *Companion*, it has now been relegated, along with much else non-English, to a few short, generic headings, although these headings are, I should add, first-class. (One serious defect in a multi-authored work such as this is the lack of a table detailing each contributor’s entries, so it is difficult to identify all the entries by Scottish contributors.) The point is not limited to Scotland, for while the Scots lawyer turning to the *New Companion* for an explanation of obscure legal terms will search in vain, so too will lawyers from other legal systems, England included. The *New Companion* records the shift in the world of legal science from the scholarship of the doctrinal drudge to the -ologies and -isms of the twenty-first century socio-legal landscape. Academic lawyers (and the contributors are overwhelmingly academics) are no longer concerned with details of (private) legal practice, but with theory, and theories that are overwhelmingly socio-political. An obvious shift from private law to public law is also reflected in the content of the *New Companion*.

One criticism Lord Rodger made of the original was that some foreign language works were misspelled. A simple solution has been found to this problem: the *New Companion* is entirely monoglot. Walker's more esoteric entries are entirely excised. And so too are many entries on the more mundane: Pandectists, Romanists and almost all Latin or Norman-French phrases. Strangely, however, for a work that is aimed at the layman, many "further reading" references are to secondary literature in specialist journals. Most unfortunately of all, however, the *New Companion* has dispensed with one of the most useful features of the original: the appendices. Again, it is unlikely that the layman will want to know, say, how many times Lord Lyndhurst was Lord Chancellor. But, for the specialist, these tables were of considerable assistance.

In the preface to the original, Walker proffered the apology that it was "beyond possibility" that the *Companion* did not contain errors. For the leisure-time labour of one man, such errors were inevitable and some were highlighted in Rodger's eight-page review. But replacing the idiosyncrasies of a single author with a team of hundreds has brought its own difficulties and, indeed, the occasional howler: perusing the entry on "Donoghue v Stevenson (1932)" (344-345) the reader double-takes at the sentence stating that Mrs Donoghue "raised a claim for damages in the (Scottish) Court of Justiciary". A claim for damages in the criminal court would indeed merit an entry in the *Oxford Companion*, perhaps under a new heading on "Incompetency". As an aside, it is interesting to observe that many of Rodger's apposite criticisms appear to have been rejected by the present contributors. Posterity, in the guise of the *New Companion*, has not preferred the "wise opinions of Lord Justice-Clerk Thomson" to the "more showy productions of Lord Cooper": Cooper makes the short-list of "Judges, distinguished" (650); such recognition continues to elude Lord Thomson.

The original *Companion* is popular in small circles. The *New Companion*, in contrast, is much more accessible: to the layman, to the law student, to the (non-lawyer) legal practitioner, or to whomsoever else, in the post-Clementi world, the public must now turn for vindication of their rights. Perhaps some lawyers may also find it useful, if not particularly interesting. But if the original *Companion* is destined to remain a book for the specialist legal researcher, the *New Companion* will instead function as *Oxford Companions* should: as an introduction for the intelligent layman who can reach for it from his own shelves. To these readers, the *New Companion* is warmly commended. To those of a more antiquarian or idiosyncratic bent, however, the publication of the *New Companion* has its own advantage: affordable second-hand copies of the original have become more readily available.

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EdinLR Vol 13 pp 341-343

DOI: 10.3366/E1364980909001541

Scott Veitch, LAW AND IRRESPONSIBILITY: ON THE LEGITIMATION OF HUMAN SUFFERING

Abingdon: Routledge-Cavendish (www.routledgelaw.com), 2007. x + 157 pp. ISBN 9780415442510 (pb). £21.99.

Much of contemporary legal and political theory is motivated and haunted by fear: the fear that, left to our own devices, we shall regress to a state of nature, where our external freedom would meet no constraints and violence would be the only way of settling our conflicts. And therapeutic resort to this predicament is usually sought in the law. The law is seen as imposing those necessary external constraints, as setting objective and correct standards (however their correctness may be determined), which will either tame our natural instincts of