

Book Review: Motor Vehicle Offences, by L. Paul Shannon

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Book Reviews

MOTOR VEHICLE OFFENCES. BY L. PAUL SHANNON. TORONTO: CANADA LAW BOOK COMPANY LTD. 1964. pp. lxxvii, 702. (\$27.50).

The problems posed by the advent of the automobile are legion. The six million motor vehicles registered in Canada¹ have affected the location and shape of our cities, the structure of our buildings, shopping areas and recreation centres, the vitality of our economy, indeed, our entire way of life.² In response to this challenge, the state has been required to engage in zoning, in highway building and in traffic regulation. The Criminal Code has several sections dealing with automobile traffic,³ all of the provinces have passed statutes regulating highway traffic⁴ and municipalities have passed myriads of by-laws governing parking, stop streets, traffic lights and the like.⁵

Despite this heavy state involvement, there were approximately 3,500 people killed and 100,000 injured in about a quarter of a million accidents in Canada in 1961.⁶ Needless to say, this has increased the amount of civil litigation⁷ and the number of cases coming before our criminal and quasi-criminal courts. In 1961, there were 2,779,090 summary convictions registered⁸ in cases involving motor vehicles. One can assume that many more charges were laid than convictions registered. Even if we remove the 1,822,405 parking ticket convictions from this total, we are left with 976,685 summary convictions registered. This means that a conviction was registered against the owner of one out of every six motor vehicles; it means also that if a lawyer were representing the accused in every case, there would have been 50 of these cases for each lawyer in Canada to defend.⁹

As these statistics show, this is a problem of large proportions, one which is of concern to society generally and, especially, to

¹ Canada Year Book, 1963-64, at p. 774 which indicates that there were 5,774,810 motor vehicles registered in Canada in 1962.

² Keats, *The Insolent Chariots* (1958), pp. 9-14.

³ For example, see Criminal Code, S.C. 1953-54, c. 51, ss. 221, 222, 223 *inter alia*.

⁴ For example, see Highway Traffic Act, R.S.O. 1960, c. 172 ss. 62a-100, *inter alia*. For citation of the comparable statutes in the other provinces see (1962), 40 Can. Bar Rev. 286, footnote 14.

⁵ For example, see the Traffic By-law of the Municipality of Metropolitan Toronto.

⁶ Canada Year Book, footnote 1, *supra*, at p. 782. In 1961 there were 266,687 accidents reported in which 99,263 persons were injured and 3,426 persons were killed.

⁷ A hand count of the writs issued in the Central Office of the Supreme Court of Ontario indicated that about 15% of all the writs there issued concerned claims for damages arising out of automobile accidents.

⁸ Canada Year Book, footnote 1, *supra*, at p. 396. In addition, there were 301 indictable offence convictions registered.

⁹ It is estimated that there are about 20,000 lawyers in Canada.

lawyers. It will become an increasingly grave problem in the years to come. As safety measures increase, as enforcement campaigns are launched, and as demerit point systems proliferate, the lawyers' role will also expand. However, if one examines the criminal law tomes produced by Crankshaw¹⁰ and Tremear,¹¹ or Martin's Criminal Code¹² or the Canadian Encyclopedic Digest,¹³ one will observe that little attention is focused on these offences. Nor have the commentators on the law of tort devoted much work to these matters,¹⁴ although some help may be gleaned from O'Connor's Highway Traffic Act.¹⁵ This void has now been admirably filled by a new book entitled *Motor Vehicle Offences* by L. Paul Shannon.

The general style adopted by the author is neither narrative nor analytical. He has chosen, rather, to assemble in orderly fashion the main statutory provisions that will be required by the lawyer in the defence of a motor vehicle charge. Following each of these blocks of statutory material, the author has placed the court decisions which have interpreted them. Usually, the author inserts a brief account of the facts of the case, the holding and the reasons for decision. Sometimes, he merely states the holding of a case, and, on other occasions, he includes a statement from the reasons for judgment. Thus, the researcher will secure a better idea of the content of the decision than he would derive from O'Connor or from the cryptic statements in the Canadian Encyclopedic Digest.

The book is divided into five main parts, although there are 23 chapters in all. The first part, made up of four chapters,¹⁶ deals with pre-trial problems, including questions about the information, the summons, powers of arrest and the right to bail.

The second part of the book, Chapters five to seven inclusive,¹⁷ covers matters of jurisdiction and the procedure in the summary conviction court. One of the most valuable portions of this book is the description of the rules of evidence¹⁸ that pertain to these matters and the chapter on demonstrative evidence.¹⁹ Charts are provided indicating the stopping distances at various speeds of different vehicles.²⁰ There is a discussion of the drag factor;²¹ the operation of radar machines²² and the breathalyzer is explained.²³ Included also

¹⁰ Crankshaw's Criminal Code, (7th ed. 1959, Popple).

¹¹ Tremear's Annotated Criminal Code, (6th ed. 1964, Ryan).

¹² Martin's Annual Criminal Code (1964 Ed. Mewett).

¹³ See Volume 20 C.E.D. 153 for a useful article by Austin Cooper on "Summary Conviction Offences" and Volume 14 C.E.D. pp. 277-280.

¹⁴ For example, Horsley, *Manual of Motor Vehicle Law* (1963); Phelan, *Highway Traffic Law* (2nd ed. 1961).

¹⁵ *Highway Traffic Act* (6th ed. 1959). This book is primarily a case finder.

¹⁶ Pp. 1-149.

¹⁷ Pp. 150-328.

¹⁸ P. 315.

¹⁹ Commencing at p. 300.

²⁰ P. 301.

²¹ P. 306 and ff.

²² P. 311 and ff.

are excerpts from two excellent articles²⁴ which explain the effect of alcohol on the human body, an indispensable bit of intelligence for any lawyer who wished to defend competently an individual accused of driving while intoxicated.

In part three, made up of chapters eight to seventeen inclusive,²⁵ the author examines the various substantive matters concerned in motor vehicle offences. All the Criminal Code offences and the Highway Traffic Act offences are treated exhaustively, including careless driving,²⁶ driving while impaired,²⁷ and failing to stop²⁸ and report²⁹ an accident. Under each section he deals with such problems as duplicity, states the penalties for each offence including the number of demerit points involved and raises the evidentiary issues that may be encountered in dealing with this particular offence. The task of the lawyer is greatly lightened since he need no longer search frantically through the penalty section of the Highway Traffic Act, the citator for the relevant case law, the revised regulations, for the number of demerit points and the criminal law books for authorities on duplicity; Mr. Shannon has put them all together under one cover.

Part four of the book, made up of chapters eighteen to twenty-two³⁰ inclusive, deals with less frequently encountered matters such as licencing, penalties, demerit points, costs and financial responsibility questions.

In the fifth and last part of the book Mr. Shannon deals most admirably with appeals from summary convictions by trial *de novo*,³¹ appeals by way of stated case³² and appeals to the Court of Appeal.³³ Not only are all the relevant statutory materials, regulations, rules of practice and cases conveniently laid out, but the author has included precedents of the required forms.³⁴ There lies, tucked away in a pocket at the back of the book, an added bonus for the purchaser. This is the exciting "alco-dial" which is a most scientific-looking device by which one can measure blood alcohol levels. Police officers and Crown Counsel are usually supplied with these instruments which permit them to speak in a jargon which is a mystery to most lawyers. By means of this device and a close reading of the material in chapter

²³ P. 320.

²⁴ Rabinowitch, *Medicolegal Aspects of Chemical Tests of Alcohol Intoxication* (1948), 26 *Can. Bar Rev.* 1437 and Menhlberger, *Chemical Tests to Determine Alcoholic Influence*, *Michigan State Bar Journal* (Feb. 1956).

²⁵ Pp. 354-515.

²⁶ P. 354.

²⁷ P. 368.

²⁸ P. 468.

²⁹ P. 420.

³⁰ Pp. 516-568.

³¹ P. 569.

³² P. 615.

³³ P. 640.

³⁴ See for example, form 3 at p. 636, which is a fine precedent to be used on an appeal by way of stated case.

7B,³⁵ counsel will derive a better understanding of the interrelation of weight, time and amount of alcohol consumed. As a by-product, this device can be utilized to measure the blood alcohol levels of one's guests at parties for the enjoyment of all and to ensure that no one who is impaired will be allowed to drive home in his automobile.

Shannon is already becoming a vital tool for every law office. In the years to come it will undoubtedly become an indispensable one, replacing some of the present works. In a future edition, it is hoped that the author will venture more into analysis, that he will attempt to elicit principles and guidelines for both bench and bar from the confusion that abounds in the cases, and that, perhaps, he will attempt some assessment and criticism of these statutes and cases which purport to regulate so important a facet of our everyday lives.³⁶

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