***Noted, But Not Invariably Approved.* By J.R. Spencer. Oxford: Hart Publishing, 2014. 256 p. ISBN-13: 978-1849466714 (paperback) $26.00.**

Don Stuart's text, *Charter Justice in Canadian Criminal Law,* 6th ed., is noteworthy for its multiple references to the annotations published in the pages of the Criminal Reports, and for the excellent "mini-tutorials" they provide on subjects of on-going controversy in that domain. Legal readers are vitally interested in, and greatly thankful for, up-to-date and insightful commentary on emerging case-law discussed by writers like Professor Stuart or by individuals like the late Professor James McLeod whose astute headnotes and superb annotations appear in the *Reports of Family Law.* The Bench and Bar are avid consumers of such excellent and focused case comments, and herein lies the merits of Professor Spencer's book: a signal source of authoritative commentary that is modest in scope. Indeed, I can think of no better collection of incisive and insightful comments on Commonwealth jurisprudence.

Noted, But Not Invariably Approved reproduces over sixty of the most impressive case notes and comments published by Professor Spencer in the *Cambridge Law Journal* in the course of his four decade long tenure at the Law Faculty at Cambridge. In reading them, I was reminded of the complexity of the "Ogopogo" case (*Matthews v. MacLaren* (1970), 11 D.L.R. 277 (Ont. C.A.) and [1972] S.C.R. 441) that bedeviled my (now distant) first year torts class and which was recently cited in *Maguire v. Padt* 2014 ONSC 6099, at para. 37 and footnote 34, along with the direct instruction on the possible interpretation to be given to the recent amendments to the Canadian *Criminal Code* on the subject of violent responses by homeowners and shopkeepers (and others) to trespassers. In addition to matters of this sort, Professor Spencer tackles in great detail the law of kidnapping, "the egg-shell rule" and blasphemy. Although these subjects rarely arise on the docket where I preside in Cornwall, Ontario, when they do, I shall be prepared!

All jocularity aside, however, I submit that it is the function of the academy to address not only bread and butter issues, i.e., those that are of quotidian interest, but also to delve into the difficult and uncommon questions that arise in order to provide the profession with the benefit of guidance and instruction borne of reflection and wide-reading, including developments in civil jurisdictions. At this, and aided by his fluency in different languages Professor Spencer excels.

With a sharp pen and a caustic tongue (the better to gain our attention as it sustains our interest), he examines such thorny issues as the correct means of charging the jury when dishonesty is alleged, the duty of judges in providing reasons, how best to assess the testimony of children[9], the insanity defence, "rape shields", naming and shaming of young offenders, the secrecy of the jury room, and a verdict arrived at by means of a Ouija board, to name but a few examples.

Civil practitioners will profit from the in-depth study of a number of subjects, notably strict liability, damages for lost chances, liability for pure economic loss, suing the police for negligence and the Rule in *L'Estrange v. Graucob* on the subject of *non est factum*, amongst many other themes explored.

I know of no other author who could write "the common law should move by little steps, like centipedes and corgis, not leaps and bounds, like kangaroos" whilst tweaking the noses of the higher judiciary in the course of one thousand words essays and yet, seemingly, remain a mainstream commentator by reason of the rigor of his analysis and the breadth of his scholarly interests. I only wish I had been familiar with his writings when in practice when I was hopeful not only of convincing the Court, but of doing so by means of a lively citation or two.

REVIEWED BY
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***The Right to Work: Legal and Philosophical Perspectives.* Edited by Virginia Mantouvalou. Portland: Hart, 2015. xiv, 351 p. Includes foreword, list of contributors, index. ISBN 978-1-84946-510-6 (hardcover). $120.00.**

This challenging book examines the concept of a "right to work" through a variety of philosophical and international legal lenses. Together, they produce a fascinating and multi-faceted discourse on the nature of work and the meaning of rights. Readers should not expect an exposition of labour rights in the same way we might expect it in the context of the *Canadian Charter of Rights and Freedoms*. Rather, the chapters explore the existence of a right to work along with its content, scope, and relationships involved.

The contributors are legal academics, one of whom hails from Canada. Together, they explore related areas such as human rights, European law, international considerations, and philosophy, in addition to labour and employment law.

Rather than a foundation of established and unquestioned rights and duties, *The Right to Work* assumes a *toile de fond* of philosophical query, discussing the nature of work, dignity, social inclusion, and the meaning of rights and duties. Contributors draw from Aristotle and the *Nicomachean Ethics*, as well as Hannah Arendt and Amartya Sen, in examining questions such as the conception of remuneration or a right to work and to be paid for it (Chapter 5), and a right to work irrespective of disability (Chapter 4).

The contributors also reflect on the formal legal underpinnings of a posited right to work, exploring, for example, the relative initiating roles of the International Covenant on Economic, Social, and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR). Chapter 6,

[9] See John R. Spencer and Michael E. Lamb, eds. *Children and Cross-Examination Time to Change the Rules?* (Oxford: Hart Publishing: Oxford, 2012).

for instance, delves deeply into interpretations of the right to work deriving from international accords such as the ICESCR and the European Social Charter.

Beyond the European and international spheres, several different foreign domestic legal systems are represented, among them, Japan, France, the United Kingdom, and the United States. The book consciously and explicitly stops short of entering into discussions of comparative law, however.

The Right to Work raises and examines thoughtful questions, forestalling a mere presumption of a right to work. If there can be said to be a right to work, what is its conception – what is its nature, what does it encompass, what are the facing duties? Is a right to work really a freedom from unjust treatment at work? Can it include a right to free choice of employment? Does a right to work impose concomitant duties on others– like the employer, the state, the union– and would such duties include a duty to provide work? Chapter 10, for example, considers a right to work and whether a duty to work then flows from it. More generally, it asks, how do rights become duties?

Particularly accessible and topical is Chapter 3 which addresses a simpler aspect of a right to work: a right to non-exploitative work. The straightforward appeal of this aspect of work gives way to a more troubling conditionality of such a right for undocumented migrant workers, suggesting a right based not on dignity but on citizenship. The contributor here considers two cases: *Hounga v Allen* 2014 UKSC 47 and *Hoffman Plastic Compounds v National Labour Relations Board* 535 US 137 (2002) both of which illustrate the limits of current recognition of an intrinsic right to work. Where one has no right to work, for reasons of documentation, for instance, one may see no rights at work.

This slim but complex and weighty book will be an excellent selection for academic libraries supporting advanced or interdisciplinary study in labour law, workers' rights, or human rights law– particularly its international aspects. Other libraries, law firms or legal practitioners will find it of interest where information is required on philosophical conceptions of labour, international or human rights law.

REVIEWED BY
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***Sexting and Cyberbullying: Defining the Line for Digitally Empowered Kids.* By Shaheen Shariff. Cambridge: Cambridge UP, 2015. xviii, 219 p. Includes illustrations, bibliographic references, appendices and index. ISBN 978-1-107-62517-4 (softcover) $29.99.**

With this book, Shariff intended to write the second edition of her 2009 work, *Confronting Cyberbullying: What Schools Need to Know to Control Misconduct and Avoid Legal Consequences*, but realized that the use of digital media by young people and adults alike had evolved quickly in a few years and that she would have to reflect this evolution in any update. Rather than create another edition that focused on cyberbullying within school communities and the legal responsibility of educators to intervene, Shariff cast her net wider with this text to address the responsibilities of not only educators, but of judges, lawyers, law enforcement officials, policy-makers, the media and parents.

Throughout the book, the author stresses that sexting and cyberbullying are not phenomena that exist in a vacuum, but rather that there are a number of forces at play which influence the online behaviour of young people. She describes the impact on youth of rape culture, the sexism and misogyny so prevalent in popular culture, slut-shaming, the media, as well as poor examples set by adults. As such, Shariff demands that her readers consider the acts of young people and their online activities within the context of these influences as well as the acceptable social mores and behaviour of teens and to react accordingly, rather than criminalizing them with the use of outdated or reactionary legislation.

Shariff describes her own "Define the Line" research in which she worked with children and teens to determine whether they were able to differentiate "between online jokes, teasing, and actual harm…[and] assess whether… [they] can easily define the line between public and private spaces and online content" (p 48). She refers frequently to the theme of lines or boundaries, some of which are blurred for young people, some of which are well-defined. She discusses the blurred lines for teens when it comes to the idea of public versus private; the foggy area of "victim-perpetrators" – perpetrators of online bullying who have been victims themselves; the "very clear social lines in the minds of these generations that should not be crossed" (p 37); and the "undeclared line in teen digital culture with respect to the amount of agency girls can use to express their sexuality" (p. 46). Based on the results of her research, Shariff again stresses the importance of protecting and educating young people rather than criminalizing them.

Chapters 3 and 4 focus on case law, emerging legislation, constitutional considerations, civil law issues and international human rights law as each is relevant to the treatment of young people who participate in sexting and cyberbullying. Cases discussed include the Amanda Todd case, the Nova Scotia Jane Doe case, the Laval Snapchat case as well as a number of U.S. cases. Shariff also discusses the problems with the treatment of young people in Bill C-13, the *Protecting Canadians from Online Crime Act*, which received Royal Assent since the publication of this book.

Shariff addresses the issue of privacy in legal proceedings for young people in her discussion of the landmark trial, *A.B. (Litigation Guardian of) v Bragg Communications Inc,* 2012 SCC 46, where the importance of balancing the protection of children's privacy with the open court principle and free press coverage is at issue. She discusses human rights