
This book presents the unorthodox and innovatory views expounded by the octogenarian Master of the Rolls in judgments over the past generation or more in a number of important areas of the law: the construction of documents, the misuse of ministerial powers, locus standi, the abuse of "group" powers, promissory estoppel, negligence and precedent. Largely it takes the form of passages from these judgments with connecting historical and other comments and it may be regarded as an apologia pro vita sua.

It is not quite clear for whom the book is intended. In the preface Lord Denning explains that by the word "Discipline" in the title he means "instruction imparted to disciples or scholars" but then adds that he has no disciples and scholars are few. Judging from the generally conversational style of writing, its hortatory character, especially in the first chapter or discourse (significant term which he uses in a number of places) on "Command of language", the questions which he frequently poses after dealing with a particular point, that leave it in effect open to further discussion, and the wholly incidental autobiographical remarks, the book is inferentially based on or reproduces addresses—not lectures—given to student and like bodies. For these, his treatment, for instance, of the evolution of the law relating to negligence and its ramifications should be particularly helpful. For the more scholarly, the book is a handy collection of Lord Denning's views that will assist in defending or attacking the positions he has taken up and in assessing his place in the history of English law.

On a more general plane, what has inspired Lord Denning in his departures from the old paths is that the law must be fair and just and have regard to the changes in social necessities and social opinion. The changes call for the remoulding of principles and rules that once operated satisfactorily and their adaptation to contemporary social conditions. I doubt whether any lawyer, however conservative, would today deny that in principle. Indeed there have been other judges who have pursued a similar course, if only at times, for how otherwise could the law have developed as it has? The essential difference between these judges and Lord Denning is that he is to all appearances more inclined temperamentally in this direction and has acted far more consistently and over a far larger range of subjects. The impression one gets is that when confronted with an issue Lord Denning's immediate reaction has been to ask himself whether or not it is fair and just, irrespective of what existing law has to say, and then to try to refashion the law accordingly. Sometimes he has done this at too hasty a pace for his less adventurous colleagues on the bench and on occasion under
a later admitted misapprehension of the law, as in *Faramus v. Film Artiste’s Association* [1963] A.C. 925.

The particular danger to which such an approach is exposed is that what is fair and just is so dependent upon the social preconceptions (some would say, prejudices) of the judges. In *Enderby Town F.C. v. F.A.* [1971] 1 Ch. 591 Lord Denning cites the well-known dictum about public policy being an unruly horse and then adds “So unruly is the horse, it is said, that no judge should ever try to mount it lest it run away with him. I disagree. With a good man in the saddle, the unruly horse can be kept in control. It can jump over obstacles... and come down on the side of justice.” The same may well be said of Lord Denning’s approach. But then, only if all judges were as good a man in the saddle as he, would the danger be at a minimum.

*P. Elman*