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# Recovery for Wrongful Death by Stuart M. Speiser

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the adversary method of trials further distorts testimony rather than clarifies it.

*Deborah Jo Milner\**  
*Samuel Milner\*\**

RECOVERY FOR WRONGFUL DEATH. By Stuart M. Speiser. Rochester: The Lawyers Co-operative Publishing Company, 1966. Pp. 1094. \$28.50.

Stuart M. Speiser has produced a how-to-do-it book on wrongful death actions combining many of the familiar features of his publisher's several multi-volume services.

Starting with a rather general introduction, reciting the history of wrongful death actions since Lord Ellenborough's decision in *Baker v. Bolton*,<sup>1</sup> Mr. Speiser has, in good *A. L. R.* style, thoroughly researched federal and state law for cases illustrative of the statements of law he makes. In areas of pleading—including instructions—the pattern of *Am. Jur. Pleading and Practice Forms* is evident. To complete the assimilation of the publisher's other services the *Am. Jur. Proof of Facts* method of model questions and elaborate tables and charts is employed to enable the practitioner to obtain the "Full Dollar Value"<sup>2</sup> of his client's case. The author has collected in one appendix<sup>3</sup> the full text of all constitutional and statutory provisions pertinent to his topic; in another appendix, these have been condensed for convenience under six general captions.<sup>4</sup>

That Mr. Speiser's treatise has been prepared particularly for plaintiffs' attorneys is emphasized by the use of the word "Recovery" in the title. Although a chapter on defenses is included, it would appear that this has been done for cautionary purposes of the attorney preparing a case for plaintiff. In like manner, the chapter on conflict of laws suggests that if recovery in wrongful death actions is limited in one jurisdiction, the maintenance of the action in a more liberal

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<sup>1</sup> Campb. 493, 170 Eng. Rep. 1033 (1808).

<sup>2</sup> Catchline employed by publisher in mail advertising, conveniently referred to as "FDV."

<sup>3</sup> SPEISER, RECOVERY FOR WRONGFUL DEATH 773 (1966).

<sup>4</sup> *Id.* at 905. The captions are: Basis of Liability, Extent of Liability, Plaintiffs and Beneficiaries, Miscellaneous (principally statutes of limitation), and survival statute. A final appendix, "C", contains "Life Expectancy Tables" derived from federal statistics.

jurisdiction might find support in one or more of the several tests or theories of choice of law.

Mr. Speiser employs a succinct, readable style and has performed his research thoroughly. It is doubtful that his work will find its niche among oft-cited one-volume legal treatises such as *Ballantine* or *Prosser*, but it is equally doubtful that it was intended to be; it is a practice manual and as such, is full of information and practice aids for the attorney seeking a single source for the law of wrongful death actions. However, it is lamentable that having spent so long a period<sup>5</sup> in the preparation of his treatise, Mr. Speiser does not have more to contribute—in a philosophical sense—to the continuing evolution of the body of the law concerned with death actions.<sup>6</sup> He is content to expose the state of the law but is not disposed to offer direction. He has brought us to the corner but only hopes we can find our way around it.<sup>7</sup>

*Recovery for Wrongful Death* is declared to be the first treatise on death cases since the second edition of Tiffany's *Death by Wrongful Act* in 1912.<sup>8</sup> Whether Mr. Speiser's book is thus overdue is debatable in the light of the observations already made. It should, however, prove to be valuable as a convenient tool for the practicing attorney.

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**THE ZONING GAME.** By Richard F. Babcock. Madison: University of Wisconsin Press, 1966. Pp. 208. \$5.75.

Zoning is a game played furiously across the country for high stakes, but the players often have little understanding of its rules or objectives. *The Zoning Game* focuses principally on the small incorporated municipalities which surround the central city and analyzes the reasons why they play the game in such a haphazard manner. The author concludes the objectives are sound, the rules are rotten, and in a great many instances the game is being refereed by the wrong

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<sup>5</sup> In his preface, the author states that his work "was six years in the making." *Id.* at v.

<sup>6</sup> In his introductory chapter, there is reference without comment to statutory compensation provisions, §§ 1.11 *et seq.* In § 3.46 suggestion is made as to the solution of problems involved in compensation for mental anguish in death actions.

<sup>7</sup> "[T]his book comes to print at a turning point in the history of wrongful death law. It is hoped that this volume may make some useful contribution, if only to point out some of the anomalies and defects in the present law of wrongful death." SPEISER, *op. cit. supra* note 1, at v.

<sup>8</sup> *Id.* at iii.