

A B S T R A C TCONDITIONS OF CONTRACT AND SPECIFICATIONS AS THEY
RELATE TO LIABILITY*Hilton Anthony McDavid*

This project seeks to prove that it is fallacious to assume that the Standard Forms of Construction Contracts are Legislative Codes or a Body of bye-laws, and to establish the liabilities of the parties to the contract in general.

In so doing, the project examines construction contracts, and more particular aspects of common contract clauses, with the aim of facilitating the Engineer, Architect, Quantity Surveyor or Land Surveyor in being better able to:

- (a) interpret contract clauses;
- (b) monitor and supervise the execution of contracts;
- (c) prepare contract documents;
- (d) review disputes arising out of contract;
- (e) sit as an arbitrator;
- (f) prepare claims; and
- (g) defend claims.

In achieving this, the project is divided into three parts and a conclusion.

Part I deals with "The Historical Development of the Laws and the Construction Sector", which is considered a necessary background for the better understanding of the various "Aspects of the Law of Contract and of Tort as they relate to Construction Contracts", which is to follow in Part II.

In Part III the various principles and aspects of the Law are applied to common construction contract conditions found in both the standard forms and drafted contracts. This is titled "Application of the Principles and Various Aspects of the Law to Construction Contracts". Special treatment is given here to Site Investigations and Foundations, as it is felt that this area has the potential for the most conflict. It is the opinion of the author that much of the adversarial environment on construction projects can be reduced if not eliminated by the fair allocation of construction risk. A separate chapter is devoted to this subject as it relates to the remainder of Part III bringing the study to a conclusion.

Throughout the project extensive use is made of reported cases and a special listing of these is given in the appendix.