

CANADIAN TORT LAW, by Allen M. Linden. Butterworths,  
Toronto, 1977, pp. xviii and 623.

This recent addition to the literature on Canadian tort law is actually a second edition of Linden's earlier work, *Canadian Negligence Law* (Butterworths, Toronto, 1974). The change of title reflects the fact that three chapters have been added: two concerning the intentional torts and the defences to them, and one concerning strict liability. This is the major change in the new edition, although there has also been a rearrangement of some of the material, more headings have been inserted, and the text has been updated by new cases and legislation.

Chapter One, "Introduction: The Functions of Tort Law" has been significantly expanded, including the material which appeared in the final chapter of the earlier edition. This chapter now forms an excellent introduction to the aims and some of the difficulties of modern tort law and contains discussions of the interaction of tort law with insurance practice, criminal law and public opinion. The introduction does not, however, contain the traditional description of the historical development of tort law, and the professor who wishes to give his students this background will find it necessary to refer them to one of the more traditional texts on tort law.

Chapter Two, "Intentional Interference with the Person" is the first of the three new chapters, and begins with a comprehensive and precise discussion of the meaning of "intent" in the context of tort law. Quite apart from its obvious value to the new student of torts, it may well be of assistance to professors who have had difficulty communicating this concept to their classes. Following the discussion of intent, the chapter sets out the basic principles of battery, assault, false imprisonment and the intentional infliction of mental suffering. The discussion of these torts is brief but the requirements for each are set out with clarity. There are abundant citations to the case law for the reader who wishes to refer to the primary source.

Chapter Three, "Defences to the Intentional Torts", is the second new chapter and discusses the defences of consent, self-defence, defence of third parties or property, necessity, and legal authority. The section on consent is particularly thorough and includes a discussion of consent in the context of medical treatment. As with Chapter Two, the discussion is brief but clear.

The third new chapter, "Strict Liability", will be familiar to those who have read Linden's article "Whatever Happened to *Rylands v. Fletcher* in Klar, ed., *Studies in Canadian Tort Law* (Butterworths, Toronto, 1977). To this article, which forms the basis of the chapter, has been added a section on defences. The resulting chapter is a useful guide to the principle of *Rylands v. Fletcher*, particularly insofar as its application in Canadian law is concerned.

Apart from the changes noted below, most of the remaining chapters in the book have been left as they were in the first edition with the exception of some minor updating and reorganization.

Chapter Four, "Negligence: The Standard of Care" has not been

substantially changed, except that the section on necessity of damage has been combined with cause-in-effect to form Chapter Five, which makes logical sense, especially from a pedagogical point of view. The chapters on statutory standards (Chapter Seven) and remoteness (Chapter Ten) both appear to have been reconsidered. While the format and much of the text remains unaltered, there is some valuable discussion not present in the former edition concerning many of the unsettled issues. Chapter Eleven, "Imperfectly Protected Interests," has changed little except that "Liability for Negligence Statements" has been removed from it and now forms its own chapter.

The title, "Canadian Tort Law" is misleading, for the book does not cover the entire gamut of tort law. There is no discussion of occupier's liability, defamation, nuisance, or the economic torts, and there is only brief reference to damages. In fact, it remains primarily a text on negligence law with concise notes on the intentional torts and strict liability. Students of the law will still find it necessary to consult one of the venerable torts authorities in order to obtain a well-rounded torts education.

Chapter Sixteen is devoted to the subject of "Automobile Accident Compensation" and is little changed from the first edition. While this may be useful as a model for assessing the utility of the tort system against other compensation schemes, the book is stated in the preface to be "an attempt to weave together the disparate strands of the Canadian law of torts into a coherent whole", and this space could have been more appropriately devoted to one of the more substantive areas not covered.

The student or professor will find that the book remains a good summary of Canadian negligence law and that the new chapters are also helpful. The insertion of many new subheadings also make the book a good deal easier to use than the first edition. While the book is better suited to teaching, the practitioner will also find this book of some utility. The law is generally stated clearly and simply, and is valuable as a case citator. The Table of Cases appears to list on a rough count over 2,000 cases, some 700 over the first edition.

In conclusion, the book contains few significant changes from the first edition although it is of course more up-to-date. Of the new chapters, only the strict liability chapter offers information which cannot be easily obtained elsewhere. Nevertheless, it is a good basic reference, particularly for Canadian negligence law.

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