

Government statements in the House of Commons. This was compiled by A. L. C. de Mestral, Ministere de la Justice, Ottawa.

Professor Castel's digest of Canadian cases in 1973 includes a crop of immigration and extradition decisions, and fifty-one Conflicts cases.

The Yearbook concludes with eleven book reviews.

Volume XII seems a very worthy successor to its forerunners. The additional chapter on Canadian Practice is especially welcome for, as has been pointed out on a previous occasion,¹ this is one of the most useful sections of the Yearbook from a practical standpoint.

—MICHAEL F. RUTTER*

¹ By Professor D. V. Kerig in his review of Volume X of the Canadian Yearbook of International Law: Vol. XII, *Alta. L. Rev.* 296 at 297. The new chapter also appeared in Volume XI.

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CANADIAN TORT LAW. By Wright and Linden. Butterworths, 6th ed. 1975. Pp. xxx and 768. \$39.50—cloth, \$25.00—paper.

Law professors, who as students, first heard of the possibility of the snail in the bottle of ginger beer in one of the early editions of this book will no doubt feel nostalgic to realize it is in the sixth edition. The breadth of tort law covered by the early editions has been restricted once again. The reasons may be the same as those given by Professor Linden when he reduced the material in the fifth edition, namely the high cost of books and the fact that many professors do not cover much more than the intentional torts, negligence and strict liability.

Professor Linden includes in this book the intentional torts and defences to them, negligence and strict liability. Chapters on products liability and automobile accident compensation are included at the end for the purpose of focusing on modern problems, evaluating the future of tort law in Canada and to give an opportunity to review theoretical concepts gleaned in earlier parts of the book.

The sixth edition is a very valuable teaching tool. There has been a reorganization in a number of chapters with new headings and some changes in introductory comments. Most of the recent decisions are reported and they are well edited. The notes which have always been a great asset have been expanded to include both recent cases and articles and questions and comments which they raise.

The book begins with the intentional torts and then moves on to negligence. This may be the traditional approach and the one recommended by Professor Linden but it seems to this writer that the young person (reasonable or not) who is entering into the study of the law in 1976 has a greater capacity to understand Lord Atkin's neighbour test than to appreciate why the mere touching of another should give rise to a cause of action. The kaleidoscope of human behavior seen in negligence cases makes them very real to the student. Who of us has not been approached after a class on negligence with the opener, "I had that same kind of accident once and I wonder if . . ." Fortunately this book is no less useful to the professor who begins the term with the study of negligence.

In the chapter on Intentional Interference with the Person and Property

there are a number of changes worthy of mention. A new note on damages for intentional torts and punitive damages is most thorough and helpful. Professor Linden has added a note on the topic of privacy which refers to the relevant Canadian legislation, case law and to a number of articles both Canadian and American. Since this is an area in which there is now a good deal of interest an extract from one of the excellent articles and perhaps even a brief version of *Krouse v. Chrysler Canada Ltd.*¹ would have been helpful.

*Penfold Wines Proprietary Ltd. v. Elliott*² has fallen! It has been reduced to a short note and called "one nightmare of a case". Professors who teach personal property may disagree with Professor Linden on his treatment of this case. I am pleased to have an excuse to drop it to a position of less importance on my syllabus!

Chapters four through eleven inclusive deal with negligence and make up the greatest part of the book. Professor Linden has done a first class job of reorganizing the chapter on duty. He begins with a well edited version of *M'Alister (or Donoghue) v. Stevenson*³ and goes on to *Nova Mink Ltd. v. Trans-Canada Airlines*,⁴ *Home Office v. Dorset Yacht Co. Ltd.*,⁵ and a note on *Dutton v. Bognor Regis Building Co.*⁶ The logical next step is to the unforeseeable plaintiff and again Professor Linden has set it all out for us, *Hay (or Bourhill) v. Young*,⁷ a note on *Palsgraf v. Long Island Railroad Co.*⁸ (which is quite enough) followed by *Duval v. Seguin*.⁹ This can be a difficult area for the student and many of the judgments in the law reports are very long. Both professor and student should be pleased with this chapter.

The chapter on causation has seen no major change but the one on remoteness and proximate cause has been expanded and reorganized. In his enthusiasm for a case or a topic a professor may sometimes forget that the student is always trying to fit the new piece of knowledge into the whole. The new headings will be helpful to the student. An example is the section, "Second Accident" containing *Wieland v. Cyril Lord Carpets Ltd.*¹⁰ and *McKew v. Holland*.¹¹

The chapter on imperfectly protected interests holds some disappointments. In the area of nervous shock many of the important and difficult cases such as *Mt. Isa Mines v. Pusey*,¹² *Hinz v. Berry*,¹³ and *Brown v. Hubar*¹⁴ are mentioned only by way of a note. Some, if not all, of these cases should be read by the student if he is to get a good grasp of the limitations on recovery. The comments of the Supreme Court of Canada on economic loss in *Rivtow Marine v. Washington Ironworks et al.*¹⁵ are so important that it is not primarily a products liability case and should be more fully reported on the economic loss issues.

¹ (1974) 1 O.R. 255 (Ont. C.A.).

² (1946) 74 C.L.R. 204 (H.C. Aust.).

³ [1932] A.C. 562 C.H.L.

⁴ [1951] 2 D.L.R. 241 (N.S. S.C.).

⁵ [1970] 2 All E.R. 294 (H.L.).

⁶ [1972] 1 All E.R. 462 (C.A.).

⁷ [1943] A.C. 92.

⁸ (1928) 162 N.E. 99.

⁹ [1972] 2 O.R. 689; affd. (1974) 1 O.R. (2d) 482 (Ont. C.A.).

¹⁰ [1969] 3 All E.R. 1006 (Q.B.).

¹¹ [1969] 3 All E.R. 1621 (H.L.).

¹² (1971) 45 AL.J.R. 88.

¹³ [1970] 1 All E.R. 1074 (C.A.).

¹⁴ (1974) 3 O.R. (2d) 448 (Ont. H.C.).

¹⁵ [1973] 6 W.W.R. 692 (S.C.C.).

The section on negligent statements is excellent. Most of the articles seem to be referred to in the notes. *Haig v. Bamford*¹⁶ which helps to define the limits of the Hedley Byrne doctrine might have been given more extensive treatment.

The chapter on the conduct of the plaintiff has been put ahead of the one on damages and this is an improvement in the format. There are additions to both chapters including more information on seat belts and collateral sources of compensation. More assistance is needed on the topics of apportionment and contribution and the assessment of damages. Wright's article¹⁷ on joint and several tortfeasors has been dropped. It leaves a void. The recent cases of large damage awards, *Teno v. Arnold*,¹⁸ *Loney v. Voll*,¹⁹ *Andrews v. Grand & Toy*²⁰ are mentioned but none is set out in any depth. This is a very important area to the practitioner and the client and the professor can no longer skim over the law on damages on the assumption that the bar admission course can handle it.

Occasionally one pines for a case from the West. *Tallow v. Tailfeathers*²¹ and especially Clement J. on *ex turpi causa* springs to mind.

The chapter on occupiers' liability has been left out of this edition. In Alberta we have a new statute, the Occupiers' Liability Act, S.A. 1973, c. 79. Thus, the comprehensive note which appears on the topic in the sixth edition is sufficient. This may not be the case in other provinces.

The professor teaching torts who tries to plan his introductory course to allow time to deal with defamation, nuisance, and perhaps the economic torts as well as those areas covered by this book, is seriously handicapped by the more limited scope of the last few editions. It is often near the end of the term before he reaches these topics and he is torn between dealing with them by lecture, which make them seem rather lifeless, and sending students to the law reports which puts a great strain on the library and today's students. But the addition of these topics along with even some of the revisions suggested by this review would increase the size and cost of the book.

Perhaps the chapters on products liability and automobile compensation should be sacrificed. This would result in a saving of about one hundred and twenty pages in this seven hundred-odd page book. This space could then be devoted to some of the more basic topics and some expansion of the existing topics. As Professor Linden says:²²

This debate, over the future of the tort suit in automobile cases, is global and seems to be endless. Books and reports have been written. Articles abound.

It would seem that interested persons would have little difficulty finding material. As much space is devoted to products liability as to the intentional torts and while it is a fascinating subject here too there is a lot of help available.²³ The other possibility, a second volume of this book, should be canvassed by the publisher.

Professor Linden has given us an excellent book. the topics in it are well and logically organized and completely up to date. This is much more than

¹⁶ [1974] 6 W.W.R. 236 (Sask. C.A.).

¹⁷ Wright, A Note on Joint and Several Tortfeasors Apportionment and Contribution, *Cases on the Law of Torts* (4th ed. 1967) at p. 388.

¹⁸ (1974) 7 O.R. (2d) 276, (1975) 55 D.L.R. (3d) 57 (Ont. H.C.).

¹⁹ [1974] 3 W.W.R. 193 (Alta. S.C.).

²⁰ [1974] 5 W.W.R. 675 (Alta. S.C.).

²¹ [1973] 6 W.W.R. 732 (Alta. C.A.).

²² Wright and Linden, *Canadian Tort Law*, 714.

²³ Waddams, *Products Liability*, Butterworths.

just a casebook. The notes, comments, and review problems make it the main resource for a student in an introductory course on the law of torts in Canada. When used along with Professor Linden's equally superb textbook, *Canadian Negligence Law* the professor and the student are in a position of strength in their studies. The sixth edition is Linden's. The seventh, perhaps in two volumes, should be in his name.

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CONSTITUTIONAL PROTECTION OF EQUALITY: Edited by T. Koopmans. Leyden: Sijthoff. 1975. Pp. vii and 255.

Of late there has been an increasing number of publications within the field of comparative law, and interest in the European Community as well as in human rights appears to have provided much of the impetus for this. The Netherlands Association of Comparative Law has recently instituted a series of 'Studies', of which the first was concerned with security over corporeal movables. The second volume edited by Professor Koopmans of the University of Leyden is devoted to *Constitutional Protection of Equality* and comprises essays on the position in the United States, Canada, the German Federal Republic, France and the Soviet Union, a diversified even if somewhat small group, for one might have expected the United Kingdom, the Netherlands or one of the Scandinavian countries to be included. The explanation given by the editor for the choice of countries included in the survey (pp. 6-7) is satisfactory so far as it goes; the United States and Germany as "countries in which the role of the judiciary in defining and interpreting the notion of equality has been paramount [,while] Canada, with its intermediate position, serves as a bridge to the discussion of the countries without judicial review", France and the Soviet Union (p. 9). But it would have been interesting to see an explanation of the omissions.

Professors Lusky and Botein begin their survey of the position in the United States with the statement that "since World War II, the [Supreme] Court has become the leading exponent of the equality ideal" (p. 13), and conclude "it has also taken the lead in publicizing and condemning the discrimination against minority groups that has so long prevailed American society. Moreover, it has generalized the concept of legally required equality beyond equal treatment of minority groups, and insists on the greatest possible equality in enjoyment of rights which it considers to be fundamental. Finally, as the recent federal statutes show, its efforts have stimulated a broad political movement which in the long run may prove to be the most solid basis of further progress toward unification of the national community" (pp. 47-8). Unfortunately, no date is given to indicate when this was written. Since the retirement of Justice Douglas and the possibility that 'the four dissenters' in, for example, the *Pittsburgh Press Case* (p. 39) may well constitute the new majority, this statement of the role of the Court may no longer be true,