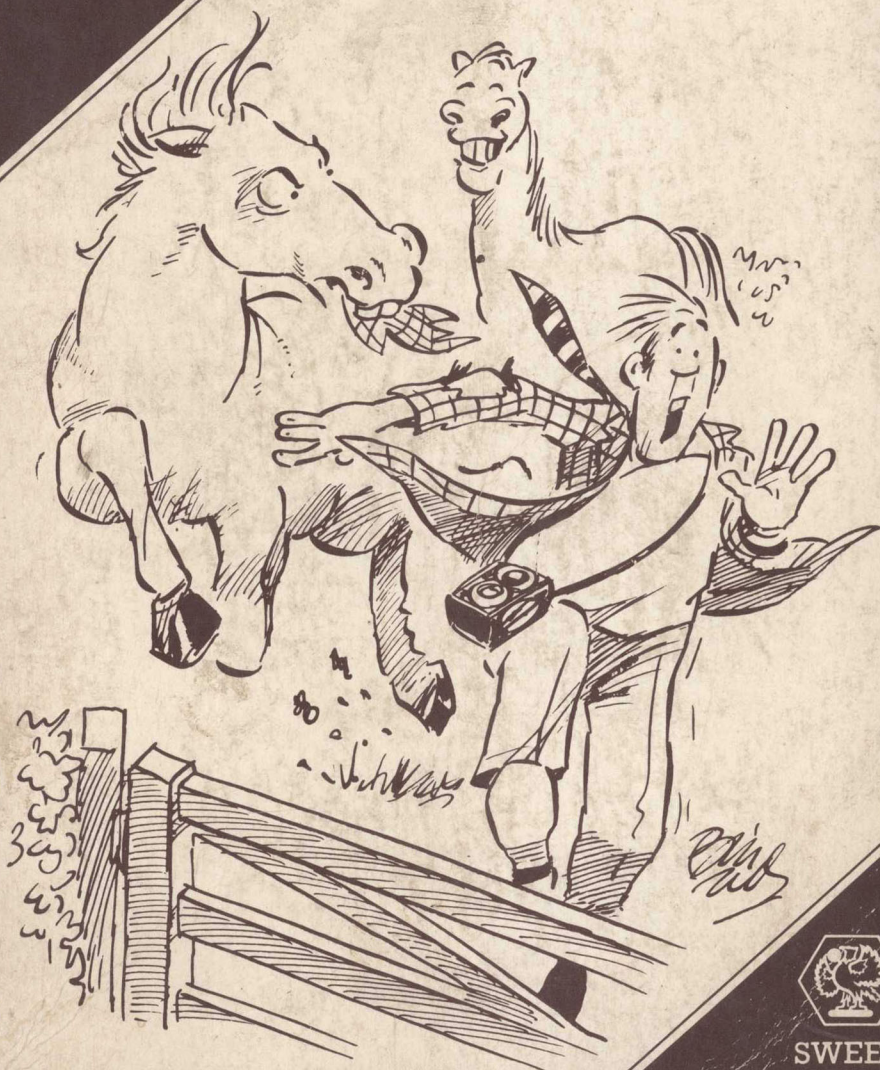


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THIRD EDITION

DAVID BAKER



SWEET
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CONCISE COLLEGE TEXTS

TORT

By

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PREFACE

The previous edition of this book was compiled while lawyers awaited the report of the Pearson Commission on compensation for personal injury. Some expected the Commission to recommend the complete replacement of the law of tort, so far as it concerned personal injury, by some type of compensation scheme not requiring proof of fault; most expected that some fundamental changes would be proposed. In fact, the Commission, which reported in 1978, recommended that the substance of the law should remain largely as it was before. The need to provide financially for those persons who received their injury in circumstances where no tort had been committed, or where no tort could be proved, should be met, at least in part, by an extension of the present social security system, leaving those who could establish a cause of action in tort free to pursue that remedy. It was possible, therefore, to prepare this edition in the confidence that a system was being described which would last for some, and probably a long, time.

The Pearson Commission did make a number of detailed proposals for reform of the present law, all of which await implementation by Parliament. These proposals are considered throughout this edition. A number of important Acts have been passed since the last edition, in particular, the Congenital Disabilities (Civil Liability) Act 1976, the Torts (Interference with Goods) Act 1977, the Unfair Contract Terms Act 1977, the Civil Liability (Contribution) Act 1978 and the Employment Act 1980. Of judicial decisions, *Anns v. London Borough of Merton* is of outstanding importance. It seeks to lay down the conditions under which public authorities may be held liable in tort for the improper discharge of their functions. Also significant are *Leakey v. National Trust*, *Pickett v. British Rail Engineering*, *Dodd Properties v. Canterbury City Council* and *McLoughlin v. O'Brien*. There have been a number of decisions exploring the ambit of the *Hedley Byrne* case. In view of the amount of judicial activity in the area of duty of care, I have rewritten and considerably extended that chapter. I also rewrote the chapter on causation and remoteness of damage, feeling that the existing account could be shortened and, it is hoped, simplified. Although the book has received no marked increase in size, a considerable amount of rewriting of passages has been

undertaken in a further attempt at clarification. The law has been stated in accordance with materials available to me at the middle of January 1981.

I would like to thank Simon Palk and Leni Green for helping me at the proof-reading stage and eradicating a number of faults. I would also wish to thank the publishers for preparing the Tables and Index and for maintaining prompt and efficient communication with me out here.

C. D. Baker

Adelaide
February 1981

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