

Hepple & Matthews

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Fourth Edition

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Tort: Cases and Materials

Fourth edition

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Preface

This edition, like its predecessors, is a collection of cases, statutes and other materials on the English law of tort, with connecting notes and questions. It is intended primarily for those studying for a first degree in law. The fairly extensive references to the literature and to other sources are intended as an aid for the teacher and for those students who wish to do research on particular topics.

The book retains the distinctive features of previous editions, namely an emphasis on the interests which the law of tort serves and a contextual approach. So far as context is concerned, there has been an encouraging growth in empirical and theoretical studies in the 25 years since this collection was first produced (1966) as a set of course materials at the University of Nottingham. We have referred to some of this literature, although for reasons of space the length of extracts is limited. Among the particularly important new work from which we have extracts is that of Hazel Genn on the settlement process (chaps. 1 and 19), and Richard Lewis on structured settlements (chap. 8). There are some quotations from new reports by law reforming bodies (e.g. the Calcutt Committee on Privacy, chap. 16), and we have thought it worthwhile to keep some of the extracts from the Pearson Report (especially in chaps. 1, 8 and 19) in view of the renewed debate on the reform of the law relating to compensation for personal injuries. We have also updated the selected bibliography on law reform, including comparative materials, in chap. 19.

The arrangement of the book is in general the same as in the third edition. However, the short chapter on malicious abuse of power, a topic which is now usually taught in the context of administrative law and civil liberties, has been dropped, one reason for this being the publishers' reasonable demands in respect of space. (This edition is 120 pages longer than the third edition.) We also no longer include the text of the statutory immunities in tort for those acting in contemplation or furtherance of trade disputes (chap. 15), because these are studied in courses on labour law. The immunities are, however, explained in notes wherever relevant to an understanding of the development of the economic torts. Liability for animals (chap. 11) has been placed in a separate chapter from liability for things (chap. 10) so as to allow a clearer focus in the latter on products liability.

We are told that teachers have found the first chapter, which attempts to put an action for damages in perspective, a useful way of introducing students to the subject. The asbestosis cases, used for this purpose in previous editions, were looking distinctly weary and so we have substituted materials from the more recent Bradford Football Fire litigation. We are grateful to Roger Suddards, Bill Hudson, Timothy Barnes QC, Edwin

Glasgow QC, M. S. E. Grime QC and Robert Smith QC for their assistance in this respect.

Since the third edition (1985), the House of Lords has retreated from expansive principle to restrictive pragmatism in relation to the duty of care. This is reflected in the partial overruling of *Anns v Merton London Borough Council* by a seven-member House of Lords in *Murphy v Brentwood District Council*, and the reinterpretation of *Hedley Byrne & Co Ltd v Heller & Partners* in *Smith v Eric S. Bush* and in *Caparo Industries plc v Dickman*. Developments such as these have left many areas of doubt and uncertainty, and have created not a few new problems to tease the minds of tort lawyers. They have made our task of selection exceedingly difficult. For example, we have thought it necessary to continue to include extracts from *Anns* in relation to the exercise of statutory powers (chap. 2), and the position of the builder (chap. 9). While dropping *Junior Books* from its former prominence as the harbinger of what we thought in 1985 might be a developing principle of 'detrimental reliance', we have considered it necessary, particularly in view of some cryptic messages in *Murphy* about its continuing relevance, to continue to discuss the case in note form (chap. 4). While there has been a move away from imposing duties in tort in the context of contractual obligations, the interrelationships of contract and tort are sufficiently complex to warrant a new subsection in chapter 4 on this topic in relation to economic loss. Many other new cases have found their way into this edition, including *Smith v Littlewoods* (chap. 2), *Reid v Rush & Tompkins Group plc*, and *The Aliakmon* in the House of Lords (chap. 4), *Hotson v East Berkshire Area Health Authority* and *Wilsher v Essex Area Health Authority* (chap. 6), *Pitts v Hunt* (chap. 7), *F v West Berkshire Health Authority* (chap. 13), *Metall und Rohstoff AG v Donaldson Lufkin and Jenrette Inc.*, *Edwin Hill & Partners v First National Finance Corp plc*, *Associated British Ports v Transport and General Workers' Union* and *Lonrho plc v Fayed* (chap. 15), *Sutcliffe v Pressdram Ltd* (chap. 16), and *Smith v Stages* (chap. 17). There is also new legislation including extracts from the Latent Damage Act 1986 (chap. 9) and the Consumer Protection Act 1987 (chap. 10).

We have endeavoured to state the law on the basis of materials available to us up to 1 October 1990, but have been able to incorporate some later material.

We are grateful to all those who have made suggestions for improvements, notably our students and colleagues, and to those who have assisted in the preparation of this edition. Butterworths have shown enormous patience, co-operation and good humour in the face of many delays. Special thanks are due to Dr. Gillian Morris for assistance with chaps. 15 and 17, Professor Phillip Capper with chap. 9, Dr. Jane Stapleton with chaps. 9 and 10, and Elliane Moran with chaps. 8 and 16, as well as to Seonaid Cooke, Roger Halson and Michael Davie for help with proofreading. The greatest debt of all is owed to Shirley Hepple and Elizabeth Matthews for their personal support and encouragement through four editions of a book which seems to make ever-increasing demands on our time and energies.

B.A.H.
M.H.M.

11 March 1991

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