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ON
NEGLIGENCE

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CHARLESWORTH & PERCY
ON
NEGLIGENCE

TWELFTH EDITION

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NEGLIGENCE

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Arlidge, Eady & Smith on Contempt

FOREWORDS TO PREVIOUS EDITIONS

FOREWORD TO THE ELEVENTH EDITION

Dr John Charlesworth had chambers in Grainger Street, Newcastle upon Tyne. It was those chambers my father joined in 1947, and remained in until he took silk in 1954. When he moved, as the rules then required, to chambers in London, he took with him his set of law reports which, after his elevation to the Court of Appeal, he passed on to me. Many of the volumes contain Dr John Charlesworth's distinct signature. They were originally his set—a set I am doubly proud to maintain.

Dr John Charlesworth was a remarkable figure. It must have been an immense labour to write, from scratch, a book devoted to the tort of negligence, a book which quickly became regarded as authoritative. He would be proud that his book continues to command its place in the Common Law Library and proud that its connection with the North East survives.

Lord Justice Waller
2006

FOREWORD TO THE TENTH EDITION

One of the great attractions of a common lawyer's practice is its variety, but there is a price to pay. Having ascertained the facts the lawyer needs to identify the relevant law, and that is the point at which previous editions of this textbook have been invaluable. This is the first edition to be edited by Judge Walton, and it is clear that he and his fellow authors have done an excellent job. The lawyer who needs to discover quickly whether his client has a viable claim, or whether he can successfully resist the claim brought against him, will find reliable up-to-date guidance in these pages, and in a fast changing and fast developing area of the law such guidance is essential. Lord Denning, in his foreword to the eighth edition described it as "the standard work par excellence." The tenth edition clearly maintains that position.

Lord Justice Kennedy
2001

FOREWORD TO THE NINTH EDITION

This invaluable book has now entered its Ninth Edition, the last to be edited by Rodney Percy. He has once again produced a first-rate guide to the law of Negligence, dealing reliably and succinctly with the many changes and developments in the law which have taken place over the last five years. Throughout his period as Editor he has maintained the excellent standards of his predecessor, John Charlesworth, and of the North Eastern Circuit. I hope that there will be many more editions to continue this tradition far into the future.

Lord Taylor of Gosforth
1996

FOREWORD TO THE EIGHTH EDITION

In my time the law of Negligence has been transformed. It is a modern sky-scraper to which new storeys are added every year. Some by judges, others by Parliament. No-one can find his way up or down except with a knowledgeable guide. Rodney Percy is the very man. He has combined the experience of the practitioner with the research of the academic. He has produced a first-rate book. If you should take it into Court, the Judge will commend your choice. It is the standard work par excellence.

Lord Denning of Whitchurch
1990

PREFACE

In the four years since the last edition there have been a number of interesting and instructive decisions relevant to areas of law with which this book is concerned. In *Rothwell v Chemical & Insulating Co Ltd*, the House of Lords considered that basic requirement of the tort of negligence, the damage required to complete a cause of action. *Commissioners of Customs & Excise v Barclays Bank Plc*, *Mitchell v Glasgow City Council* and *Trent Strategic Health Authority v Jain* each raised the question whether it was fair, just and reasonable to impose a duty of care in factual situations which had potentially wide relevance by analogy. *Van Colle v Chief Constable of Hertfordshire* and *Smith v Chief Constable of Sussex Police* returned to the issue of the liability of the police to the victim of crime. *Stone & Rolls Ltd v Moore Stephens* dealt with the ambit of the defence of illegality in tort. *A v Hoare* involved clarification of the “knowledge” provisions of the Limitation Act 1980. In *Corr v IBC Vehicles* issues of remoteness and causation were examined where the victim of a breach of duty had committed suicide. And while they involved breach of statutory duty rather than negligence, a trio of cases—*Robb v Salamis (M&I) Ltd*, *Spencer Franks v Brown & Root*, and *Smith v Northamptonshire County Council*—examined the provisions of the Work Equipment Regulations 1999.

So quite apart from the work of the Court of Appeal, particularly in the area of damages for very serious injury, there is more than enough material to justify a fresh assessment of the text.

For this edition the editorial team has been joined by Stephen Todd who has undertaken the considerable task of rewriting that part of Chapter 2 which dealt with the duty of care. Stephen has also provided assistance with those sections of the work dealing with the accrual of a cause of action for limitation purposes, and remoteness of damage.

As a result of Stephen’s work it seemed wise to give Parties and Vicarious Liability their own chapter, and that led to all subsequent chapters being renumbered. Hopefully this has caused more difficulty for the editors and the publishing staff at Sweet and Maxwell than it will cause the reader. The compensation for any sense of dislocation in not finding topics under chapter numbers they have occupied for a number of years, is a discussion of the duty of care which is both up to date, and with a frame of reference which extends over the several common law jurisdictions to an even greater degree than before.

Simon Wood and Roger Cooper have both revised the chapters for which they have previously taken responsibility; Simon, Chapters 11, 12, 14 and 15 and Roger Chapters 5, 10, 16, and 17. They shared Ch.13 and I have dealt with what remained.

PREFACE

We are grateful as ever for the efforts of the editorial staff at Sweet and Maxwell who have expertly shepherded us through the various stages of publication with a minimum of fuss, particularly Clare McMahon and Alexandra Hirst.

Sadly, as noted in the Second Supplement to the last edition, Rodney Percy died in April 2008. He had inherited responsibility for editing this book after his former master in the law, Dr Charlesworth, himself died suddenly in 1957. He then continued single handed until 1996 and remained actively involved up to the last edition. We work in Rodney's shadow but are committed to his vision of a text accessible and helpful to student and practising lawyer alike.

The law is stated at July 1, 2010.

Christopher Walton,
Gosforth,
Newcastle upon Tyne

TABLE OF ABBREVIATIONS

The dates denote the period covered by the reports or the latest editions of textbooks. Current series are marked with an asterisk ().*

A. & E.	Adolphus & Ellis's Reports, Q.B., 1834–40
A. & S.L.	Air and Space Law
A.C	Law Reports, Appeal Cases, 1875–90
[1891] A.C.	Law Reports, Appeal Cases, 1891–
ACOP	Approved Code of Practice
AIDS	acquired immune deficiency syndrome
A.L.J.R.	Australian Law Journal Reports
A.L.R.	Australian Law Reports, 1834–40
All E.R.	All England Reports
App.Cas.	Law Reports, Appeal Cases (1891 onwards)
ASHE	Annual Survey of Hours and Earnings
B. & S.	Best and Smith's Reports, Q.B. 1861–70
BRB	British Railways Board
BTC	British Transport Commission
B.W.C.C.	Butterworths Workmen's Compensation Reports
Bing. N.C.	Bingham's New Cases, C.P. 1834–40
Brownl.	Brownlow & Goldesborough's Common Pleas Reports
C.B.	Common Bench Reports, 1840–56
[1891] Ch.	Law Reports, Chancery
Ch.D.	Law Reports, Chancery Division, 1876–90
CICA	Criminal Injuries Compensation Authority
CICAP	Criminal Injuries Compensation Appeals Panel
CICB	Criminal Injuries Compensation Board
CIM	Uniform Rules Concerning the Contract of International Carriage of Goods by Rail
CIV	Uniform Rules Concerning the Contract of International Carriage of Passengers by Rail
C.L.	
Cl. & F.	Clark and Finelly's Reports, HL, 1831–46
C.L.C.	Current Law Consolidation
C.L.J.	Cambridge Law Journal
C.L.Y.	Current Law Year Book
C.M.L.R.	Common Market Law Reports
Cab. & El.	Cababe & Ellis' Queen's Bench Reports

TABLE OF ABBREVIATIONS

Com. Cas.	Commercial Cases
Conv.	Conveyancer and Property Lawyer
COTIF	Convention concerning International Carriage by Rail
C.P.D.	Law Reports, Common Pleas Division, 1875–80
CPR	Civil Procedure Rules
Crim. L.R.	Criminal Law Review
Cro. Eliz.	Croke's King's Bench Reports
CRU	Compensation Recovery Unit
dB	decibel
D.L.R.	Dominion Law Reports
DSM-IV	<i>American Diagnostic and Statistical Manual of Mental Disorders</i>
Dunlop	Dunlop's Reports, Session Cases
DVT	deep vein thrombosis
DWP	Department for Work and Pensions
E. & E.	Ellis & Ellis, Q.B. Reports
Ed. C.R.	Education Case Reports
Ed. L.M.	Education Law Monitor
E.G.	Estates Gazette
Ex.	Exchequer Reports, 1848–56
EWCA Civ	Court of Appeal, England and Wales
EWHC	High Court, England and Wales
F. & C.L.	Finance and Credit Law [?]
F.C.R.	Family Court Reports
H. & C.	Hurlstone and Coltman's Exch. Reports, 1862–66
H. & N.	Hurlstone and Norman's Exch. Reports, 1856–62
HA	Health Authority
I.C.D.-10	<i>International Classification of Diseases and Related Health Problems</i>
I.C.R.	Industrial Cases Reports
I.F.L. Rev.	International Financial Law Review
IH	Inner House, Court of Session
J.P.I. Law	Journal of Personal Injury Law
[1901] K.B.	Law Reports, King's Bench (1901 onwards)
K.I.R.	Knight's Industrial Law Reports
L.J.C.P.	Law Journal Common Pleas, 1831–75
L.J.Ch.	Law Journal Chancery (1831–1946)

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L.J.Ex.	Law Journal Reports, Exchequer (1831–75)
L.J.K.B.	Law Journal, King's Bench
L.J.Q.B.	Law Journal, Queen's Bench
L.Q.R.	Law Quarterly Review
L.R.A.&E.	Law Reports, Admiralty and Ecclesiastical, 1865–75
L.R.C.P.	Law Reports, Common Pleas, 1865–75
L.R.Ex.	Law Reports, Exchequer, 1865–75
L.R.H.L.	Law Reports, English and Irish Appeal Cases, 1865–75
L.R.Ir.	Law Reports, Ireland, 1867–93
L.S.Gaz.	Law Society's Gazette
L.T.	Law Times Reports, 1859–1947
Ld.Raym.	Lord Raymond's Reports, 1694–1732
Lloyd's Rep.	Lloyd's Law Reports
M. & W.	Meeson and Welsby's Exchequer Reports, 1836–47
Macq.	Macqueen's Reports, Session Cases
M.C.L.Q.	Lloyd's Maritime and Commercial Law Quarterly
ME	myalgic encephalomyelitis
MIB	Motor Insurers' Bureau
M.L.R.	Modern Law Review
MMR	measles, mumps and rubella vaccine
NCB	National Coal Board
NERC	National Environment Research Council
N.I.	Northern Irish Reports
N.L.J.	New Law Journal
New L.J.	[also used]
N.Z.L.R.	New Zealand Law Reports
OH	Outer House, Court of Session
O.J.L.S.	Oxford Journal of Legal Studies
P.	Probate Division
PD	Practice Direction
P.I.Q.R.	Personal Injury and Quantum Reports
P.N.	Professional Negligence Reports
P.N.L.R.	Professional Negligence and Liability Reports
Phillips	Phillips' Chancery Reports
PTSD	post-traumatic stress disorder
Q.B.	Law Reports, Queen's Bench, 1865–75
[1891] Q.B.	Law Reports, Queen's Bench (1891 onwards)
Q.B.D.	Law Reports, Queen's Bench Division
Q.L.R.	Queensland Law Reports

TABLE OF ABBREVIATIONS

RSA	Returned Services Association
R.T.R.	Road Traffic Reports
S.A.	South African Law Reports
S.A.S.R.	South Australian State Reports
S.C.	Session Cases
S.C.L.R.	Scottish Civil Law Reports
SHA	Strategic Health Authority
S.J.	Solicitor's Journal
S.L.T.	Scots Law Times
SRN	state registered nurse
T.L.R.	Times Law Reports, 1885–1952
Tort L. Rev.	Tort Law Review
UKHL	House of Lords, United Kingdom
W.A.L.R.	Western Australian Law Reports
W.L.R.	Weekly Law Reports
W.N.	Weekly Notes, 1866–1952
W.W.R.	Western Weekly Reports

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