CONCISE
COLLEGE
CASENOTES

CASES AND STATUTES ON TORT

PAUL L. BRADBURY

SECOND EDITION

SWEET
&
MAXWELL

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By

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PREFACE

THE purpose of this book remains that of being a useful case source, principally for those students who do not have access to a law library. Again, it is also hoped that the materials collected will serve as a straightforward introduction and revision aid for University and Polytechnic students. Various changes since 1974 have necessitated a second edition. Thus various new cases are included which have reshaped the common law over the last four years. In addition, the repeal of the Industrial Relations Act 1971 has brought about a number of changes in the field of economic torts.

As with the first edition, I have again dealt with over 350 cases and many relevant statutes, *e.g.* the Defamation Act 1952, the Occupiers' Liability Act 1957, and the Animals Act 1971. In all some 15 new cases have been dealt with in addition to important new legislative changes, *viz* the Trade Union and Labour Relations Act 1974, the Trade Union and Labour Relations (Amendment) Act 1976, The Congenital Disabilities (Civil Liability) Act 1976 and the Torts (Interference with Goods) Act 1977.

January 1, 1978 P.L.B.

TABLE OF CASES

[*References in* Roman *type are to a consideration of the case.*]

TABLE OF STATUTES

[*References to the text of Acts are shown in italic type.*]

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PART I: INTRODUCTION

MEANING AND CHARACTERISTICS OF A TORT

It is extremely difficult to give a satisfactory definition of a tort. Indeed, it is doubtful if one can be given. The best known definition is that offered by Winfield: "Tortious liability arises from the breach of a duty primarily fixed by the law: this duty is towards persons generally and its breach is redressable by an action for unliquidated damages." This duty is fixed by law so that a person who suffers loss or damage will not always be able to obtain redress. In *Donoghue* v. *Stevenson* [1932] A.C. 562, 580, Lord Atkin recognised this fact when he said "Acts or omissions which any moral code would censure cannot in a practical world be treated so as to give a right to every person injured by them to demand relief. In this way rules of law arise which limit the range of complainants and the extent of their remedy." There can be little doubt that the older criteria for establishing whether or not a duty arises in certain circumstances are no longer the sole criteria. Policy considerations are now often of paramount importance, as can be seen in *Hedley Byrne* v. *Heller*, *Dorset Yacht Co.* v. *Home Office* and *Dutton* v. *Bognor Regis U.D.C.*, etc.

INTENTION

Vaughan v. Menlove (1837) 3 Bing. N.C. 468

The defendant owned a haystack which stood close to his neighbour's land. He was warned that it might overheat and catch fire and spread to his neighbour's land. He said that he would risk it. The fire happened and the defendant was held liable for the damage which occurred. That the defendant did not intend the consequences was immaterial.

Note: The difficulties experienced in defining a tort are also