

TABLE OF CONTENTS

	Page
PREFACE TO SECOND EDITION	vii

Chapter I. Introduction

Sec.		
1.	The Lawyers' Role in Tort Litigation	1
2.	The Law Student's Approach to Study of Torts	4
3.	A Policy Approach to Torts	7

Chapter II. Entries on and Damages to Real Property

1.	Trespass Quare Clausum Fregit	10
2.	A Policy Analysis of Types of Trespass Q. C. F. Cases	10
3.	Policy, Doctrine, and Precedent in Trespass Q. C. F.	16

Chapter III. Assault and Battery, Consent, and Defense of Persons and Property

1.	Assault and Battery	21
2.	Consent	24
3.	Self-Defense	33
4.	Protection of Property	36
5.	Destruction or Use of Property to Prevent Disaster	39

Chapter IV. Negligence—The Substantive Law and the Jury Charge

1.	The Substantive Law of Negligence	43
2.	Law and Fact	48
3.	The Jury Charge—The Reasonably Prudent Person Standard	49
4.	The Jury Charge—Variations on the Reasonably Prudent Person Theme	52
5.	The Jury Charge—Judicial Efforts to Develop Standards More Exact Than the Reasonably Prudent Person Standard	58
6.	The Jury Charge—Concrete Standards Borrowed from Criminal Statutes	61
7.	The Jury Charge—Concrete Standards Borrowed from Administrative Safety Measures	72

TABLE OF CONTENTS

Chapter V. Negligence—Proof of Negligence and Proof of Due Care

Sec.		Page
1.	The Objectives of Proof	80
2.	Proof Describing Defendant's Conduct and the Scene of Injury	81
3.	Proof of Danger	82
4.	Proof of Knowledge of Danger or Opportunity to Dis- cern it	88
5.	Proof of Feasible Safer Alternatives	94
6.	Evidence to Establish Criteria of Due Care	100
7.	The Burden of Proving Negligence	114
8.	Res Ipsa Loquitur	117

Chapter VI. Duty—The No-Duty Rules and Immunities

1.	Two Kinds of No-Duty Rules	126
2.	No-Duty to Render Aid to a Stranger	127
3.	No-Duty Rules Protecting Land Occupants from Lia- bility	132
4.	No-Duty Rules Shielding Land Sellers and Lessors	140
5.	The Repudiated No-Duty Rule Which Once Sheltered Manufacturers, Builders and Other Suppliers from Liability	142
6.	Criminal Statutes and Civil No-Duty Rules	146
7.	Immunities from Tort Liability	151

Chapter VII. Extent of Liability for Negligence: Duty, Negligence and Causation

1.	The Relation Between Defendant's Wrong and Plain- tiff's Injury	154
2.	Actual Cause—Proof Problems	155
3.	Sufficient Connection in Law—The Question	158
4.	Is the Defendant Liable for Unforeseeable Conse- quences?	161
5.	The Statutory Purpose Rule	167
6.	"Class Foreseeability" When No Statute Is Involved ...	172
7.	The Proximate Cause Rules	174
8.	Proof and Extent of Recoverable Damages	178
9.	Is the Defendant Liable for All Foreseeable Conse- quences?	179
10.	Certainty of the Law on Scope of Liability	185

TABLE OF CONTENTS

Sec.		Page
11.	Cause-in-Fact Relation as a Prerequisite of Liability ..	187
12.	Distinguishing Between Actual-Cause Problems and Other Scope-of-Liability Problems	190
13.	Judge and Jury	196
14.	Policy Considerations	199

Chapter VIII. Contributory Fault

1.	Alternatives When Plaintiff's Loss Results from Fault of Both Litigants	202
2.	The Defense of Contributory Negligence—Substantive Law	206
3.	The Doctrine of Last Clear Chance and Allied Doctrines	210
4.	Trial of Contributory Negligence Issues	216
5.	Voluntary Assumption of Risk	217

Chapter IX. Liability Without Proof of Fault

1.	Trespassing Animals	222
2.	Personal Injuries Perpetrated by Animals	225
3.	Liability for Escaping Inanimate Destructive Force ...	227
4.	Policy Analysis of Enterprise Liability Without Fault	232
5.	Products Liability Without Fault	237
6.	No-Fault Automobile Insurance	244
7.	Respondeat Superior	251

Chapter X. Private Nuisance

1.	Scope of This Chapter	259
2.	Householders Harassed by Commercial and Industrial Enterprises	260
3.	Householders' Nuisance Suits Against Governmental Units	263
4.	Private Eleemosynary Institutions Located in Residen- tial Areas	265
5.	Incompatible Residential Neighbors	266
6.	Rural Agriculturists and Residents Complaining of Commercial or Industrial Nuisances	267
7.	Incompatible Exurban, Non-Industrial Neighbors	269
8.	Nuisance Litigation Between Commercial or Industrial Neighbors	270
9.	Nuisance and Fault	270
10.	The Effect of Legislative and Administrative Rules on Liability for Private Nuisances	275
11.	Injunctions Against Nuisance	282

TABLE OF CONTENTS

Sec.		Page
12.	"Balancing the Equities"	284
13.	The Measure of Money Damages for Nuisance	288

Chapter XI. Misrepresentation

1.	Misrepresentation Contrasted with Other Torts	291
2.	The Fault Requirement—Scienter	292
3.	Negligent Misrepresentation	294
4.	Innocent Misrepresentation	298
5.	Concealment and Nondisclosure	306
6.	The Requirement That the Representation be One of "Fact" Rather than "Opinion"	310
7.	The Requirement That the Misrepresentation Caused the Injury—Reliance	313
8.	Contributory Fault in Misrepresentation Cases	316
9.	Limits of Liability for Misrepresentation	319

Chapter XII. Defamation

1.	The "Absolute" Privileges	329
2.	The Constitutional Revolution in Defamation Law	332
3.	What Survives the Revolution?	353
4.	Retraction	372
5.	Counseling Claimants	376
6.	Policy Considerations	378

Chapter XIII. Malicious Prosecution and False Imprisonment

1.	Malicious Prosecution	383
2.	False Imprisonment	399

Table of Cases	415
----------------------	-----

Index	429
-------------	-----