

Emerging Issues in Tort Law BY JASON W. NEYERS, ERIKA CHAMBERLAIN and STEPHEN G.A. PITEL, eds. [Oxford and Portland, Oregon: Hart Publishing, 2007. xvi + 593 pp. Hardback: £75]

In June 2006, a conference at the University of Western Ontario brought together some of the leading names in the field with the aim of exploring emerging issues in tort law. This book, which is edited by three legal academics from the University of Western Ontario, is the fruit of that conference.

The twenty-two chapters—by experts from Australia, Canada, Hong Kong, Israel, New Zealand, Singapore, the UK and the US—deal with a diverse range of issues, which the editors describe as being drawn together by the common thread of “tension between past and future”.

In the first chapter, Peter Cane considers the theoretical question of whether tort law should be divided into ‘general’ and ‘special’ areas. The next chapters, by Lewis Klar, Shauna Van Praagh, Elizabeth Adjin-Tettey and Michael Jones, move on to consider the ‘special’ areas of liability of public authorities for statutory obligations, the standard of care applicable to children, claims for involuntary parenthood, and the need for a unifying principle in the area of negligently inflicted psychiatric harm. Following this comes a group of chapters—by Peter Benson, Stephen Waddams, Stephen Todd, David Partlett and Israel Gilead—on economic loss, ranging from negligently drafted wills and third party claims to damages for defective properties and the screening processes adopted by courts. Next is a group—by Richard Wright, Vaughan Black, Robert Stevens, John Murphy, David Wingfield and Paula Giliker—on various aspects of causation, non-delegable duties and vicarious liability, followed by chapters in which Andrew Tettenborn and Kumaralingam Amirthalingam suggest new approaches to the well-established concepts of loss and damage, and Richard Lewis looks at the area of periodical payments. The penultimate two chapters, by Ken Oliphant and Denise Réaume, deal with aspects of the intentional torts, and in the final chapter Rick Glofcheski surveys recent developments in tort law in Hong Kong. The book ends with a brief (and very amusing) epilogue on the theme of *Donoghue v. Stevenson* by Stephen Todd.

Although most of the chapters take a fairly global approach, some, such as that by Lewis Klar, which considers the consequences of *Queen v. Saskatchewan Wheat Pool* on actions for breach of statutory duty, deal almost entirely with Canadian law, and several others are jurisdictionally geared towards the Canadian position. This is not particularly surprising given the book’s origins, nor is it a problem, since even in the chapters with a Canadian bias there is much of interest for lawyers from other jurisdictions. The chapter by Peter Benson, for example—which asks whether *White v. Jones* should be adopted in Canada—offers an excellent discussion of the implications of the English law in this area, and that by Shauna Van Praagh—which considers liability for the wrongs of children—also provides plenty of comparative analysis between common law and civilian approaches to the relevant standard of care.

Of particular interest are the chapters on economic loss, an area which continues to bedevil courts everywhere, spawning a unique level of jurisdictional inconsistency. Among a strong group of chapters on this subject, that by Stephen Todd, as Justice Ian Binnie observes in his foreword, stands out as “a model of comparative scholarship.”

(Professor Todd was, incidentally, honoured at the conference dinner with the John G. Fleming Award for his contributions to the law of tort.)

This is a book full of interesting insights and illuminating arguments. It is not, however, one which necessarily lives up to the expectations created by its title. In the introduction, the editors observe: “Despite the conference title, it was remarkable to hear several of the scholars begin their presentations with apologies for not addressing ‘emerging’ issues in tort law. It seems that we are accustomed to viewing tort law through the lens of history, and are cautious about proclaiming revolutionary developments.” That may well be the case, but however one looks at it, many of the chapters deal with relatively well-trodden issues, and while a number consider matters of contemporary significance, few deal with questions at the cutting edge of tort law. Notable exceptions in this respect include the chapters by Andrew Tettenborn and Kumaralingam Amirthalingam, both of which look outside the box and suggest ways in which traditional views of loss and the gist of damage could—and perhaps should—be adapted to accommodate the interests vying for recognition in a changing legal climate. And for those interested in theoretical matters, Peter Cane’s stimulating chapter takes an innovative and thought-provoking approach, asking whether the general/special distinction made in the criminal arena might usefully be employed in tort law.

While the paucity of ground-breaking subject-matter is perhaps slightly disappointing, the quality of scholarship does not disappoint at all. The sheer breadth of knowledge and experience exhibited by the writers makes the book an exceptionally good read for practitioners, judges and academics alike—indeed anyone with an interest in tort law. It is a pot pourri of well-written and thoughtfully argued pieces by many of the foremost authorities in the field, offering something to appeal to every ‘tortaholic.’ As a taste of tort law in all its diversity, it is to be highly recommended.

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