

*The Law of Torts in Australia*, by Francis Trindade and Peter Cane, Oxford University Press, 1985. lxxv-763 pp. \$65 (hard cover), \$39.50 (limp)

The authors of this book are respectively an Associate Professor of Law at Monash University and an Australian lawyer who is a Fellow of Corpus Christi College, Oxford. Trindade and Cane have undertaken the monumental task of writing a completely new text on tort law in Australia. Lest it be thought that, with a book of the calibre of Fleming already in existence, a second comprehensive text on Australian law is unnecessary, it should be said that Trindade and Cane have produced a work which is quite different from and complementary to Fleming's excellent and valuable book. Whereas Fleming's work might be thought to have a more international than strictly local flavour and at times to be perhaps a little esoteric for law students, Trindade and Cane have set out to examine and present the law of torts from a truly Australian perspective in a book which is avowedly designed principally for law students.

One of its best features is the clarity of expression and the systematic way in which the materials are organized and presented. Free use is made of headings and sub-headings and the law is expounded, or arguments developed often by numbered points. For example the authors will say: "The warranties implied into contracts for the sale of goods have three main shortcomings as 'consumer protection' devices" (pp. 475-6) and then proceed to elaborate on them, or: "The harsh rule laid down in *Addie's* case was never very popular and a variety of juristic devices was used to circumvent it" (p. 454) and then proceed to list them. This clarity of exposition and logical organization will make it a very popular book with law teachers and students.

The authors in their Preface modestly express the hope that legal practitioners as well as students will find much in the book which will be of interest to them. This will undoubtedly be so for the book is by no means a mere summary or overview or outline of the field. It gives a thorough, highly researched, 'in depth' treatment of the law of torts, with an emphasis throughout on Australian cases and statutes. Moreover the authors are not content merely to expound the law. At every point attention is given to policy arguments and suggestions are made about the direction in which the law may be or should be going.

The authors acknowledge their indebtedness to the authors and editors of established works such as Salmond and Heuston, Winfield and Jolowicz, Street and Fleming. They have taken full advantage of their unique position in preparing a wholly new book without the constraints of a previous edition, but with the benefit of the experience in collecting and organizing materials, of the earlier treatise writers. Their organization is fairly traditional. They move from the intentional torts to negligence and then to areas of strict liability. But their book has a more modern appearance than the other standard texts. They devote separate chapters or sections to those areas where, in the modern law, the most interesting or controversial developments are occurring.

Of particular interest are the section on the impact of the Trade Practices Act 1974 (Cth.) on the 'economic torts' (Ch. 28 3.), the section on whether the law will or should develop an action for intentional infliction of mental distress (Ch. 2 V) and the chapters on Negligent Trespass (Ch. 8), Negligence and Public Authorities (Ch. 17), Economic Analysis and the Law of Negligence (Ch. 18), Economic Analysis and Strict Liability (Ch. 24), Alternatives to the Tort System (Ch. 27) and the Future of the Law of Torts (Ch. 28).

The authors have sought to examine the law of torts in the context of the society in which it operates and to ask what purpose it serves and how effectively it serves it. This approach is likely to inspire more interest on the part of law students than mere straight exposition. Their prognosis is that, with the expected expansion of 'no fault' schemes (described in Ch. 27), the law of torts may well cease to play an important role in relation to personal injuries and death, at any rate so far as road accidents are concerned. However it can be confidently predicted that a growth area for the law of tort will be that of negligent infliction of economic loss. Defamation too will remain an important part of the law of torts, although the law of defamation is not dealt with in the book. This is because it is, as the present time in Australia, in a state of flux. The authors consider it likely that a uniform law will be enacted in the various states, as proposed by the Australian Law Reform Commission in its Report entitled *Unfair Publication: Defamation and Privacy*.

It will be clear from the above comments that in the opinion of the reviewer, Trindade and Cane have made an outstanding and important contribution to Australian legal literature.

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