

INDEX

ABATEMENT, 227-230

ABUSE OF LEGAL PROCEDURE, 1061-1093

See also MALICIOUS PROSECUTION

abuse of process, 1079-1082
champerty, 1087-1090
immunity from suit, 1082-1087
 judges, 1082-1085
 public prosecutors, 1085-1087
maintenance, 1087-1090
spoliation, 1091-1093

ABUSE OF POWER

See MISFEASANCE IN A PUBLIC OFFICE

ABUSE OF PUBLIC OFFICE

See MISFEASANCE IN A PUBLIC OFFICE

ABSOLUTE PRIVILEGE, 817

defamation, 782-786
injurious falsehood, 1027

ACT OF GOD, 242, 261-262, 270-271, 284, 287, 548-549

AGGRAVATED DAMAGES, 129, 613, 646-648, 653, 806-807

AGENCY, 301, 306, 318, 320-321, 323, 350

traditional test, 306
vicarious liability and, 323, 350

AIRSPACE, 45, 53

trespass to, 46-48

ANIMALS, 267-295

cattle trespass, 268-273
 legislation, 271-272
 remedies, 272-273
negligence, 289-295
scienter doctrine, 273-289
 dangerous propensity, 277-279
 defences, 284-287
 domesticated animals, 274, 276-277
 knowledge of propensity, 279-280
 legislation, 287-289
 loss of control, 281-282
 ownership or control, 280-281
 wild animals, 274-276

APPORTIONMENT AMONG TORTFEASORS, 1117-1120

APPROPRIATION OF PERSONALITY, 819-821

ARREST, 67, 83

- citizens' arrest, 119-122
- false arrest, 82, 84, 119, 121, 1062-1064
- lawful arrest, 119-124
- without a warrant, 117

ASSAULT, 33, 75, 80-81, 89, 91-94, 103, 935

See also TRESPASS

BAD FAITH, 382, 386, 760, 1023, 1101

See also MALICE

BAILMENT, 138, 160, 175, 356

BATTERY, 15, 27-28, 30, 75-80, 91-96, 99, 109, 111, 337-348

See also TRESPASS

BONA FIDE PURCHASER, 163

BREACH OF CONTRACT

See INDUCING BREACH OF CONTRACT

BREACH OF PRIVACY

See INVASION OF PRIVACY

BREACH OF STATUTE, 471, 743-757

- action for, 743-748
- duty of care, relationship to, 746, 752
- misfeasance in public office, 745
- Saskatchewan Wheat Pool*, 471, 748-751
 - effect of decision, 751-757
- unlawful means tort, 756

BUT FOR TEST, 503, 505-512, 514-515, 521-522, 526-527

See also CAUSATION

CATTLE TRESPASS

See ANIMALS

CAUSATION, 503-527

- but for test, 503, 505-512, 514-515, 521-522, 526-527
- foundation of liability, 503
- informed consent, 513-514
- learned intermediary rule, 512-513
- loss of chance, 523-525
- material contribution test, 514-522
- multiple negligent defendants, 511-512
- toxic torts, 525-526

CHAMPERTY, 1087-1090

CHARACTERISTICS OF TORTS, 1-13

- compensation, 2-6
 - distinguished from punishment, 2-3
 - provided by other systems of law, 5
 - role of damages, 2
- duties imposed by law, 7-13
 - contract, contrasted with, 7, 9-11
- functions of tort law, 17-21
 - compensation, 18
 - corrective justice, 20
 - deterrence, 18
 - economic efficiency, 20
- private and public wrongs, 11-13
- CHATTELS, 4, 48, 131-142, 155-157, 161, 446**
 - bailment, 138, 160, 171, 175, 323, 356, 664, 716
 - damage to, 613-619
 - finders, 136, 137
 - jus tertii* plea, 45, 148, 161-162
 - liability for dangerous chattels, 663-687
 - damage, 683-687
 - dangerous *per se*, 663-664, 673
 - defective design, 674-675
 - defective manufacture, 675-676
 - duty to warn, 670, 676-683
 - eligibility to sue, 671
 - history, 663-667
 - scope of liability, 667-669
 - recaption, 30, 61, 102
 - replevin, 175-180
 - trespass to, *see* TRESPASS
- CHILDREN**
 - See* MINORS
- CITIZEN'S ARREST, 119-122**
- COMPENSATION**
 - See* DAMAGES
- CONCURRENT LIABILITY, 10, 434, 930**
 - negligent misrepresentation, 9, 412-436
- CONSENT, 160, 819-820, 825-826**
 - acceptance of dangerous work, 580
 - defence to torts, 30-31, 57-60, 83, 96, 109-116, 139, 217-218, 259-260, 322, 740
 - defamation, 802-804
 - negligence, 570-587
 - trespass to the person, 109-110
 - informed, 379-380, 470, 513-514, 683
 - rescuers, 582

CONSORTIUM

See INTERFERENCE WITH FAMILY RELATIONSHIPS

CONSPIRACY, 893-912

defences, 910-912
 justification, 910-912
 trade unions, 912
elements, 899-910
 agreement, 899-901
 damage, 908-910
 intention, 901-904
 participation, 906-908
 unlawful act or means, 904-906
nature and scope, 893-899

CONTINGENCY FEES, 1089

CONTRIBUTION AMONG TORTFEASORS, 600, 1115-1117, 1123-1130

CONTRIBUTORY NEGLIGENCE, 94, 218, 286, 571, 703, 706, 725-726, 741

negligence, defence to, 587-605
economic loss, 432-433

CONVERSION, 143-170

acts constituting, 146-155
chattels, meaning of, 155-157
defences, 160-163
entitlement to sue, 157-160
history, 143-144
intention, 144-145
remedies, 163-170
 damages, 163-170
 recaption, 179-180
 replevin, 175-179
 restitution, 169-170
strict liability, 145

CUSTOMARY PRACTICE, 249, 480-484

DAMAGES

See also REMEDIES

aggravated, 129, 613, 646-648, 653, 661, 806-807, 816, 889, 1026
assessment, 163-166, 607-609, 619, 623, 626, 658, 782, 804, 840, 883, 1009
collateral benefits, 631, 639-644, 654, 661, 844,
compensatory, 4, 12, 35, 69-71, 79, 105-106, 607, 683, 810, 1048, 1097
 categories of, 607
 damage to chattels, 613-619
 damage to real property, 69-71, 610-613
 general, 128, 607
 non-pecuniary losses, 634-637

- pecuniary losses, 623-624, 629, 652, 656-658, 805, 815, 909, 1016-1017
- personal injuries, 619-644
 - future care, 631-634
 - loss of future earnings, 624-629
 - pre-trial care, 629-631
 - special, 182, 430, 623, 762-764, 804-805, 883, 1022, 1025-1026
- contribution and indemnity, 1124, 1126-1128, 1130
- deterrence, 18, 128, 241, 302, 303, 310, 328, 335, 352, 744, 816, 1050
- exemplary, *see* PUNITIVE
- fatal accidents, 650-661
 - claims by dependants, 654-661
 - claims by victim's estate, 650-654
- mitigation of, 107, 166-167, 431, 613, 644-646, 685, 804, 807, 809, 887, 890
- nominal, 29, 48, 70-71, 128, 139, 169, 609, 804
- punitive, 3, 105-106, 127-128, 130, 168, 647-650, 653, 661, 809-810, 832, 889-890, 937-938, 974, 1010, 1024, 1050
- restitutio in integrum*, 2, 607-608, 615, 658-659
- for specific torts
 - conspiracy, 908-910
 - conversion, 163-170
 - deceit, 885-890
 - defamation, 804-810
 - detinue, 173-174
 - fraudulent misrepresentation, 883-890
 - inducing breach of contract, 946, 951, 969, 974
 - intrusion on seclusion, 815-817
 - loss of services, 838, 840-842
 - negligence, 607-661
 - nuisance, 222-224
 - passing-off, 1048-1050
 - trespass, 69-72, 128-130
 - unlawful means tort, 1009-1010

DANGEROUS ANIMALS*See* ANIMALS**DANGEROUS USE OF LAND, 239-265**

- collection or accumulation of dangerous things, 252-253
- defences, 259-265
 - act of God, 261-262
 - act of stranger, 262-263
 - plaintiff's conduct, 259-261
 - statutory authority, 263-265
- defendant's purposes, 253-255
- escape, 257-259
- non-natural use, 249-252
- origins and characteristics, 241-244
- rule in *Rylands v. Fletcher*, 239-249

- relationship to other torts, 244-246
- scope of liability, 246-249
- strict liability, 239-241

DEATH, 650-661

See also DAMAGES

- liability arising from, 650-654
 - at common law, 650
 - statutory provisions, 650-654
 - dependants' actions, 654-661
 - survival of actions, 650-653

DECEIT, 847-892

- damages, 883-890
 - aggravated, 889-890
 - consequential losses, 885-887
- defences, 890-892
- effect of fraud, 847-850
- elements, 851-883
 - damage, 880-883
 - false representation of fact, 856-865
 - intention to induce reliance, 871-874
 - knowledge of falsity, 865-871
 - reliance, 874-879
- evolution, 847-850
- marriage, 850, 853-854
- paternity, 854-855

DEFAMATION, 4, 12, 15, 759-812

- defences, 780-804
 - absolute privilege, 782-786
 - consent, 802-804
 - fair comment, 797-802
 - justification, 780-782
 - qualified privilege, 786-795
 - responsible communication on matters of public interest, 795-797
- eligibility to sue, 778-779
- freedom of expression and, 759-761, 772, 780, 795, 811
- group defamation, 772-774
- innuendo, 771-772
- internet, 761, 776-777
- libel and slander distinguished, 762-764
- malice, 782, 786, 789-790, 792-793, 797, 801-802, 806, 808
- meaning and context, 759-761
- publication, 774-777
 - application to electronic communications, 776-777
- reference to plaintiff, 772-774
- remedies, 804-812

- damages, 804-810
- injunction, 811-812
- slander, 762-764
- statements constituting, 764, 766-770
- strategic litigation against public participation (SLAPP), 760

DEFECTIVE PRODUCTS

See CHATTELS

DEFENCES, 284-287, 559-605 780-804, 890-892, 910-912

See also DEFAMATION, NEGLIGENCE, TRESPASS

- consent, 30, 57-60, 109-116 570-587, 802-804
- contributory negligence, 587-605
- defence of others, 30, 102
- defence of property, 30, 101-102
- ex turpi causa*, 126, 563-570
- inevitable accident, 559-563
- justification, 60-63, 67, 82, 780-782, 910-912, 938-940, 950-951, 966, 975-981, 1012-1013
- mistake, 37, 63, 95-96, 119-120, 132, 1062
- necessity, 31-32, 38, 55-56, 107-109, 125
- provocation, 104-107
- self-defence, 29, 102-104, 125
- statutory authority, 116-124, 218-222, 263-265
- volenti non fit injuria*, 470, 570, 572, 582, 891

DETERRENCE, 302-303, 310, 328, 335, 816, 1050

- generally, 18
- market deterrence, 241

DETINUE, 170-175

- defences, 175
- entitlement to sue, 172-173
- remedies, 173-175
- restitution, 174
- trespass, distinguished from, 170-171

DUTY OF CARE, 361-407

- Canadian approaches to, 367-369, 376-381
- neighbour principle, 365
- origins, 365-367
- specific applications, 381-407
 - economic loss, *see* ECONOMIC LOSS
 - dangerous chattels, *see* CHATTELS
 - psychiatric harm, 399-407
 - public authorities, 381-389
 - rescuers, 394-398
 - unborn children, 389-394
- test for, 369-376

- foreseeability, 369-371
- proximity, 371-374
- policy, 374-376
- to warn, *see* CHATTELS

ECONOMIC LOSS, 409-457

- generally, 409-411
- Hedley Byrne*, 409-411, 422, 426, 428, 438, 684
- negligent misrepresentation, 412-436
 - concurrent liability in contract, 433-436
 - contributory negligence, 432-433
 - damage or detriment, 430-432
 - defendant's undertaking, 423-424
 - disclaimers, 422-423
 - end and aim rule, 423-424
 - foreseeable reliance, 418-420
 - illustrations, 425-428
 - reasonable reliance, 420-423
- negligent performance of a service, 436-439
 - disappointed beneficiaries, 438-439
- negligent supply of shoddy goods or structures, 440-447
- new duties of care, 454-457
- public authorities, *See* DUTY OF CARE
- relational economic loss, 447-454

EMPLOYEES, 733-740

- See also* EMPLOYERS' LIABILITY, VICARIOUS LIABILITY
- acceptance of dangerous work, 580, 738, 740
- apprentices, 736
- independent contractors, distinguished from, 307-309
- temporary transfer, 734-735
- volunteers, 735-736

EMPLOYERS, 729-742

- See also* EMPLOYEES, LOSS OF SERVICES, VICARIOUS LIABILITY

EMPLOYERS' LIABILITY, 729-742

- defences, 740-742
 - common employment, 741-742
 - contributory negligence, 741
 - voluntary assumption of risk, 740-741
- duty to employee, 729-733
- scope of liability, 731
- standard of care, 736-740
- statutory provisions, 731-733

EX TURPI CAUSA, 33, 112, 126, 139-140, 554, 563-570, 1124

EXCLUSION CLAUSES, 10, 260, 433-434, 436, 576, 849, 891

EXEMPLARY DAMAGES

See DAMAGES

FAIR COMMENT, 759, 761, 797-802, 826

FALSE ARREST, 82, 84, 119, 121, 1062-1064

FALSE IMPRISONMENT, 81-86, 117, 119, 123, 1062-1063

See also TRESPASS

FALSE REPRESENTATION

See DECEIT

FAMILY RELATIONSHIPS, INTERFERENCE WITH, 829-833

parent and child, 830-833

spouses, 829-830

FAULT, 6, 15-16, 93, 284, 288-289, 300, 601, 603, 1118-1119

intention, 27-29

negligence, 289

malice, 1023-1024, 1074-1076

strict liability, distinguished from, 16, 27, 96, 239-241

FORESEEABILITY, 94, 271, 290-291, 403, 405, 416, 439, 447-448, 546-547, 719, 1008

duty of care, 365-371

remoteness, 532-537

standard of care, 464-468

FRAUD

See DECEIT

FRAUDULENT MISREPRESENTATION, 349, 848-850, 868, 873, 891

FUNCTIONS OF TORT LAW, 17-21

See also CHARACTERISTICS OF TORTS

compensation, 18

corrective justice, 20

deterrence, 18

economic efficiency, 20

GENERAL DAMAGES, 623, 805-808, 883, 1009-1010, 1025-1026

GOODS

See CHATTELS

GROSS NEGLIGENCE, 484-485, 499, 808, 844, 957

ILLEGALITY, 126, 139-140, 283, 285, 563-571, 891

IMPRISONMENT

See FALSE IMPRISONMENT

See also TRESPASS

INDEPENDENT CONTRACTORS, 297-298, 305-309, 324, 352-358, 701, 716, 734, 740, 1124

See also VICARIOUS LIABILITY

INDUCING BREACH OF CONTRACT, 941-981

elements, 949-975
 damage, 973-975
 existence and breach of contract, 952-955
 inducement or procurement of breach, 964-973
 intention to procure breach, 959-965
 knowledge, 955-959
justification, defence of, 975-981
origins and nature, 941-944
rationale for the tort, 944-949

INFANTS

See MINORS

INJUNCTIONS, 4, 32, 72-73, 811-812, 919, 936, 946, 1006

See also DEFAMATION
discretionary remedy, 234
nuisance, 182, 184, 208, 217, 223-227, 229, 233-235
types of, 225, 1050-1052

INJURIOUS FALSEHOOD, 1015-1027

absolute privilege, 1027
evolution, 1015-1017
elements, 1022-1026
 damage, 1025-1026
 disparagement, 1022
 falsity, 1023
 malice, 1023-1025
slander of quality, 1019-1020
slander of title, 1019

INNUENDO, 769-772, 801, 1017

INTENTION

generally, 16, 24, 27-28
for specific torts
 conspiracy, 894, 901-904, 906, 909
 conversion, 144-145, 147-149
 deceit, 871-874
 inducing breach of contract, 942-943, 947-950, 959-964
 intimidation, 914, 932-935
 nuisance, 206-209
 trespass, 35-38, 42, 56, 75, 77, 86-87, 89-96, 98-99, 100, 135-138

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS, 86-91

See also TRESPASS

INTERFERENCE WITH FAMILY RELATIONSHIPS, 829-833

- parents and children, 830-833
- spouses, 829-830

INTIMIDATION, 913-940

- elements, 921- 938
 - damage, 936-938
 - intention to injure the plaintiff, 932-935
 - submission to threat, 935-936
 - threat, 921-924
 - unlawful act, 924-932
- function of tort, 919
- justification, defence of, 938-940
- origin and evolution, 913-914
- three-party intimidation, 915-919
- unlawful means tort, relationship to, 915-918

INTRUSION ON SECLUSION, 814-817**INVASION OF PRIVACY, 813-827**

- appropriation of personality, 819-821
- intrusion on seclusion, 814-817
- nuisance, 822
- public disclosure of private embarrassing facts, 817-819
- statutory provisions, 824-827

INVITEES, 699-703

See also OCCUPIERS' LIABILITY

JOINT TORTFEASORS

See MULTIPLE TORTFEASORS

JUS TERTII PLEA, 45, 148, 161-162, 1023,**JUSTIFICATION, 16, 24, 60-63, 67, 938-940**

- defence to specific torts
 - conspiracy, 910-912
 - defamation, 780-782
 - inducing breach of contract, 946, 950-951, 966, 969, 975-981
 - unlawful means tort, 1012-1013
- use of force, 61, 102, 117-119, 125, 140

LAND, 184, 186-190, 199, 241, 270, 272, 610

See also DANGEROUS USE OF LAND

- definition, 45-48
- non-natural use, 249-252, 263
- occupiers, 714
- reasonable use of, 47, 203, 205-206
- trespass to, *see* TRESPASS
- types of interests in, 41-43
- unreasonable use of, 195, 212, 243-244

LAST CLEAR CHANCE, 588, 597-599, 602

LEGAL AUTHORITY, 55

See also NUISANCE, TRESPASS

LIBEL

See DEFAMATION

LOSS

See DAMAGES

LOSS OF CHANCE, 523-525

See also CAUSATION

LOSS OF SERVICES, 831, 835-845

damages, 838, 840-842
employer/employee relationship, 836-839
limitations on liability, 842-843
per quod servitium amisit, 835-840
origins, 835-836
scope, 839-840

MAINTENANCE, 1087-1090

MALICE, 130, 583-584, 648-650, 932, 1084

defamation, 782, 786, 789-790, 792-793, 797, 801-802, 806, 808
meaning of
and fair comment, 797, 801-802
and qualified privilege, 786, 789-790, 792-793
and responsible communication, 795-797
injurious falsehood, 1022-1025
misfeasance in a public office, 1096-1097, 1104-1108

MALICIOUS PROSECUTION, 1061-1079

damage, 1078-1079
elements, 1065-1076
lack of reasonable and probable cause, 1069-1074
objective test, 1071
subjective test, 1072-1073
malice, 1074-1076
proceedings initiated by defendant, 1066-1068
proceedings terminated in favour of plaintiff, 1068-1069
false arrest, distinguished from, 1062-1064
nature and scope, 1061-1064

MASTER AND SERVANT

See EMPLOYEES; EMPLOYERS, LOSS OF SERVICES

MENTAL INCAPACITY, 96-100, 477, 574

MENTAL SUFFERING

See TRESPASS

MINORS, 25, 99-100, 109, 567, 592**MISFEASANCE IN PUBLIC OFFICE, 1095-1110**

- elements, 1100-1110
 - deliberately unlawful conduct, 1101-1104
 - knowledge, 1106-1109
 - material damage, 1109-1110
 - public office, 1100-1101
 - malice, 1105-1106
- history and context, 1095-1099
- role of the tort, 1110

MISREPRESENTATION

See ECONOMIC LOSS

MISTAKE, 37, 63, 95-96, 119, 132

See also TRESPASS

MITIGATION OF DAMAGES

See DAMAGES

MULTIPLE TORTFEASORS, 1111-1130

- apportionment, 1117-1120
- concurrent tortfeasors, 1115-1117
- contribution among tortfeasors, 1123-1124
 - statutory provisions, 1124-1130
- devaluation principle, 1116
- joint tortfeasors, 1111-1114
- judgment and release, 1120-1123
- several tortfeasors, 1114-1115
- successive tortfeasors, 1116

NECESSITY, 31-32, 38, 55-56, 107-109, 125, 139

See also TRESPASS

NEGLIGENCE

See also CAUSATION, DAMAGES, DUTY OF CARE, PROOF OF NEGLIGENCE, REMOTENESS, STANDARD OF CARE

- animals, 267-268, 289-295
- defences, 559-605
 - consent, 570-587
 - elements, 572-574
 - employment, 580-582
 - express consent, 574-576
 - impaired driving, 586-587
 - implied consent, 577-580
 - rescuers, 582
 - sports, 583-585
 - contributory negligence, 587-605
 - agony of the moment, 480, 591

- causation, 594-599
- legislation, 600-605
- minors, 592
- remoteness, 599
- illegality, 563-570
- inevitable accident, 559-563
- economic loss, *see* ECONOMIC LOSS
- elements of
 - causation, 503-527
 - damages, 607-661
 - duty of care, 365-369
 - remoteness, 529-558
 - standard of care, 459-485
- employers, *see* EMPLOYERS' LIABILITY
- gross negligence, 484-485
- manufacturers, *see* CHATTELS
- and nuisance, 204
- occupiers, *see* OCCUPIERS' LIABILITY

NEGLIGENT BATTERY, 76-80, 92-95

See also TRESPASS

NEGLIGENT MISREPRESENTATION

See ECONOMIC LOSS

NERVOUS SHOCK

See DUTY OF CARE, INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

NON-NATURAL USE OF LAND, 249-252, 263

NON-PECUNIARY LOSSES, 624, 634-638, 807

NOVUS ACTUS INTERVENIENS

See REMOTENESS

NUISANCE, 181-238

- adoption of
- defences, 213-222
 - coming to the nuisance, 215-217
 - consent, 217-218
 - prescription, 213-215
 - statutory authority, 218-222
- definition, 181-182
- factors affecting liability, 196-213
 - intensity and duration, 201-202
 - locality principle, 196-199
 - motivation, intention, and knowledge, 206-208
 - sensitive plaintiff, 199-200
 - unreasonableness, 189, 190, 195

- private nuisance, 183-230
 - by damage, 186-189
 - by interference, 189-196
- public nuisance, 230-238
 - private actions for, 235-238
 - remedies, 233-235
- remedies, 222-230
 - abatement, 227-230
 - damages, 222-224
 - injunctions, 224-227
- right to sue, 184-186
- trespass, distinguished from, 183, 229

OCCUPIERS' LIABILITY, 689-727

- defences, 722-726
 - assumption of risk, 722-725
 - contributory negligence, 725-726
- landlords, 726-727
- scope of liability at common law, 691-710
- statutory provisions, 710-727
 - scope of protection, 712-715
 - standard of care, 715-722
- types of entrants, 697-710
 - contractees, 697-699
 - invitees, 699-703
 - licensees, 703-707
 - trespassers, 707-710

PASSING-OFF, 1029-1060

- elements, 1034-1048
 - damage, 1046-1048
 - misrepresentation and confusion, 1042-1046
 - reputation and goodwill, 1035-1042
- expansion of tort, 1052-1056
- history, 1030-1032
- rationale, 1032-1034
- remedies, 1048-1052
 - compensatory damages, 1048-1050
 - delivery up or destruction, 1052
 - injunction, 1050-1052
- trademarks legislation, 1056-1060

PECUNIARY LOSSES, 623-633, 652, 656-658, 909, 1026

PER QUOD SERVITIUM AMISIT

See LOSS OF SERVICES

PERSONAL LIABILITY, 967

- vicarious liability, distinguished from, 297-300

PRIVACY

See INVASION OF PRIVACY

PRIVATE NUISANCE

See NUISANCE

PRIVATE WRONGS, 11-13

PRIVILEGE

absolute, 782-786, 817
and defamation, 782-795
and injurious falsehood, 1027
maintenance and champerty
qualified, 786-795

PRODUCT LIABILITY

see CHATTELS

PROFESSIONALS

See STANDARD OF CARE

PROOF OF NEGLIGENCE, 487-501

res ipsa loquitur, 488-501
applicability, 495-498
effect, 498-500
expiry, 490-491
scope, 493-495

PROVOCATION, 104-106, 111

PROXIMATE CAUSE

See REMOTENESS

PROXIMITY

See DUTY OF CARE

PUBLIC NUISANCE

See NUISANCE

PUBLIC WRONGS, 11-12

PUBLICATION, 770, 774-777, 782, 793, 811

PUNITIVE DAMAGES

See DAMAGES

PURE ECONOMIC LOSS

See ECONOMIC LOSS

QUALIFIED PRIVILEGE, 786-795

absolute privilege, distinguished from, 782
malice, 786, 789-790, 792-793
responsible communication, distinguished from, 795-797

REASONABLE FORSEEABILITY

See FORESEEABILITY

REASONABLE PERSON, 81, 95, 199, 223, 365, 380, 462-467, 471-472, 514, 548, 683, 705, 866, 1022, 1069

See also STANDARD OF CARE

RECAPTION, 30, 61, 102, 140, 179-180

See also GOODS

RELATIONAL ECONOMIC LOSS, 411, 447-453, 836, 841

RELEASE, 574, 576-577, 582, 584-585, 849, 1000-1001, 1121-1123, 1125

RELIANCE, 372, 589, 756, 1029

deceit, 871-879

negligent misrepresentation, 412-432, 438-439, 454

REMEDIES

See also DAMAGES

abatement, 227-230

injunctions, 72-73, 234-235, 811-812, 1050-1052

replevin, 175-180

restitution, 169-170, 930-931

specific relief, 174-175, 179, 946

self-help, 179-180

for specific torts

conversion, 163-170

deceit, 883-890

defamation, 804-810

detinue, 173-175

nuisance, 222-230

REMOTENESS, 529-558

directness test, 531-532

factual causation, distinguished from, 529

foreseeability test, 532-536

novus actus interveniens, 543-549

rescuers, 549-550, 552

SAAMCO principle, 537, 555-558

thin skull principle, 537-539

REPLEVIN, 175-180

See also GOODS

RES IPSA LOQUITUR

See PROOF OF NEGLIGENCE

RESCUERS, 550, 552, 582

duty owed to, 394-398, 549

remoteness, 398

RESPONSIBLE COMMUNICATION, 759, 789-790, 795-797

See also DEFAMATION

RESTITUTION, 3-4, 12, 169-170, 173-174, 930-931

RYLANDS V. FLETCHER

See DANGEROUS USE OF LAND

SCIENTER DOCTRINE

See ANIMALS

SELF-DEFENCE, 29, 102-105, 125

SELF-HELP, 56, 61, 68, 140, 272

abatement, 227-230

necessity, 31-32, 38, 55-56, 107-109, 125, 139

recaption, 179-180

SEVERAL TORTFEASORS

See MULTIPLE TORTFEASORS

SLANDER, 762-764, 804, 1015-1027

See also DEFAMATION, INJURIOUS FALSEHOOD

libel, contrasted with, 762

of quality, 1019-1020

of title, 1019

SPECIAL DAMAGES

See DAMAGES

SPECIAL RELATIONSHIP

See PROXIMITY

STANDARD OF CARE, 459-485

See also BREACH OF STATUTE

customary practice, 480-484

gross negligence, 484-485

reasonable person test, 462-465, 467, 471-471, 474-475, 479, 484

special standards, 474-480

children, 477-478

mental or physical incapacity, 478-480

professionals, 475-477

unreasonable conduct, 462-464

failure to take precautions, 468-472

foresight and severity of harm, 464-468

social utility, 472-474

STATUTORY AUTHORITY, 263-265

nuisance, 218-222

trespass, 116-124

STRICT LIABILITY, 16, 96, 1015, 1043

See also ANIMALS, CONVERSION, DANGEROUS USE OF LAND

cattle trespass, 268-270

- conversion, 145
- dangerous use of land, 239-265
- detinue
- fault, distinguished from, 239
- generally, 239-248

SUCCESSIVE TORTFEASORS

See MULTIPLE TORTFEASORS

SURVIVAL OF ACTIONS, 650-655, 660, 840**THIN SKULL PRINCIPLE, 222, 531, 535-539, 554, 701****TORTFEASORS**

See MULTIPLE TORTFEASORS

TRADEMARKS

See PASSING-OFF

TRADE UNIONS, 912**TRESPASS, 4-5, 23-142**

- cattle, *see* ANIMALS
- common elements, 23-32
 - actionable *per se*, 29
 - consequences of, 32-34
 - directness, 25-26
 - force, 23-24
 - intention and fault, 27-29
 - voluntariness, 24-25
- to goods, 131-142
 - defences, 139-142
 - liability, 132, 137, 139, 141
 - subject matter, 132-134
 - recaption, 140
 - standing to sue, 134-139
 - actual possession, 134-138
 - right to possession, 138-139
- to land, 35-73
 - airspace and subsoil, 45-48
 - defences, 55-67
 - consent, 57-60
 - entry as of right, 56
 - justification, 60-63
 - legality under statute, 63-65
 - necessity, 55-56
 - recaption of chattels, 61
 - recovery of land, 61
 - liability, 35-55
 - acts constituting trespass, 49-52
 - continuing trespass, 52-54

1150 INDEX

- defendant's state of mind, 35-38
- trespass *ab initio*, 54-55
- voluntary and involuntary trespass, 35-36
- remedies, 68-73
 - damages, 69-72
 - injunction, 72-73
 - self-help, 68
- standing to sue, 39-45
 - actual possession, 41-42
 - ownership or right of possession, 39, 40
 - unlawful possession, 43-45
- to the person, 75-130
 - damages, 128-130
 - aggravated, 129
 - punitive or exemplary, 130
 - defences, 101-128
 - consent, 109-116
 - fight, 112-113
 - generally, 109-110
 - medical treatment, 113-116
 - sports, 111-112
 - discipline, 125
 - ex turpi causa*, 126
 - necessity, 107-109
 - protection of property, 101-102
 - provocation, 104-107
 - self-defence, 102-104
 - statutory authority, 116-124
 - lawful arrest, 119-124
 - defendant's state of mind, 91-100
 - intention and negligence, 91-95
 - mental disorder, 96-99
 - minority, 99-100
 - mistake, 95-96
- forms, 75-91
 - assault, 80-81
 - battery, 76-80
 - false imprisonment, 81-86
 - intentional infliction of emotional distress, 86-91
- TRESPASSERS, 33, 44, 58-59, 68, 101, 139, 285, 694-695, 704, 707-710, 715, 721**
 - See also* OCCUPIERS' LIABILITY
 - intention, 24, 27-29, 35-38, 75, 86-96, 136-138
- UNBORN CHILDREN**
 - See* DUTY OF CARE
- UNJUST ENRICHMENT, 229, 239, 953, 1049, 1124-1125**

UNLAWFUL MEANS TORT, 916-918, 934, 943, 971-972

- elements, 987-1012
 - damage, 1008-1012
 - intention to harm the plaintiff, 1003-1008
 - unlawful means, 988-1002
 - breach of statute, 987, 990, 992-993, 998-1000
- evolution, 983-987
- justification, defence of, 1012-1013

UNLAWFUL THREATS

See INTIMIDATION

UTMOST GOOD FAITH, 857**VICARIOUS LIABILITY, 297-360**

- direct liability, distinguished from, 297-300
- rationale for, 300-304
- scope of liability, 331-360
 - agents and employees, 331-337
 - distinguishing employees from independent contractors, 307-309
 - independent contractors, 352-360
 - special instances, 313-331, 337-352
 - borrowed employees, 325-331
 - the Crown, 317-320
 - fraud, 348-352
 - hospitals, 313-317
 - motor vehicles, 320-325
 - non-sexual battery, 337-341
 - sexual battery, 341-348
 - statutory provisions, 317-320

VOLENTI NON FIT INJURIA, 7, 470, 570, 572, 582, 891

See also CONSENT

VOLITION, 28, 49, 95, 479, 545**WAIVER, 574-576, 584-585, 724**

See also CONSENT

WILD ANIMALS

See ANIMALS

WRONGFUL DEATH

See DEATH

WRONGFUL INTERFERENCE

See UNLAWFUL MEANS TORT

