



McGlone & Stickley Australian Torts Law

published by Lexis Nexis Butterworths

By Bill Madden

Australian *Torts Law* by Frances McGlone and Amanda Stickley (both of the QUT Law Faculty), is the third edition of a work initially published in 1992 under the title *Outline of Torts*. Republished in 2005, the book runs to almost 500 pages in a modernised format, making it quite an accessible text.

As the title and preface make clear, the authors focus upon the distinctively Australian common law recognised by Sir Anthony Mason some 15 years ago as reflecting our different political, social and economic conditions.

Most importantly, so far as I am aware, the book is the first comprehensive torts text to address the Ipp Report recommendations and various civil liability enactments. Together they create a distinctively Australian common law, albeit with a slightly different statutory gloss in each of the states and territories.

The authors were faced with a major task, given the number and variation of

recent enactments and the varying approaches taken in each state to important areas of the law such as nervous shock and highway authority liability.

I suspect the book is primarily aimed at advanced torts students, but would certainly be of great use to the practising torts lawyer faced with the task of giving proper advice in the current vibrant legal climate.

Negligence is, as one would expect, covered in detail. The chapters cover duty of care in a general and specific sense, and the special areas of wrongful death, employer and family relations, public and statutory duties and the challenges of multiple tortfeasors.

As always, I was interested to see the causation treatment and pleased to see the analysis described by the authors as 'scope of liability' (now often called the normative test). It is a pity that the authors did not have an opportunity to analyse the recent High Court decision of *Travel Compensation Fund v Tambree* [2005] HCA 69 (16 November 2005), which in some ways tends to muddy the waters in this crucial area under the civil liability legislation.

The book is by no means limited to negligence but devotes seven chapters to the increasingly important intentional torts (trespass, nuisance and misfeasance in public office).

Vicarious liability and non-delegable duties are covered in some detail, including for intentional torts. In what, given my minimal knowledge of the area, seems courageous, defamation is also covered along with interference in business interests. There is a separate chapter addressing liability for animals.

Practising lawyers seeking to extend the ambit of recovery under the usual torts may find the coverage of misrepresentation in torts quite helpful.

Each chapter concludes with a short list of suggested further text and article readings for the interested student or the practitioner wanting further detail. The text follows the usual format in including a comprehensive table of cases and statutes. ■

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