

PREFACE.

THE preparation of this edition of my book on Negligence has taken up a very large portion of my time during the last three or four years ; and the result is not the mere bringing up to date which at regular intervals is necessary in order to keep a law book in life, but the presentation of a considerable body of new problems and conclusions.

Discussions on questions of negligence are of daily occurrence in the Courts ; since the tendency of law freed from technical fetters is to base claims on breach of duty rather than on some more refined or recondite reason ; while the increasing complexity of social relations in modern life accentuates immensely the occasions of conflict, whether intentional or not, between those whose interests or rights are converging but not identical. A large proportion of, though not nearly all, the 1465 new cases introduced into this book, is due to this expansion of the subject and is the growth of ten years of active legal work. The residue is to be put down to what was improvidently omitted before, or what is material for new exemplification or is of historical interest.

Of the new cases some, like *Angus v. London, Tilbury, and Southend Ry. Co.* (at p. 144), *McArthur v. Dominion Cartridge Co.* (at p. 615), *The Winkfield* (at p. 735), *Colonial Bank of Australasia v. Marshall* (at p. 1329), or (on quite a lower plane) *Marney v. Scott* (at p. 60), and *Conroy v. Peacock* (at p. 716), supply problems of historical or juridical interest ; others, like *De la Bere v. Pearson*, affirmed in the Court of Appeal, 24 *Times Law Report*, 120, but not noticing the points touched on in the text (at pp. 102, 1166), *Tozeland v. West Ham Union* (at p. 246), *Smith v. Giddy* (at p. 407), present a certain novelty in the colligation of the facts suggesting competing analogies, and invite analysis.

I have used considerable freedom in inquiring into the validity of the decisions arrived at. It may be, as Lord Coke tells us, that the whole common law of England resides in the breasts of the judges ; but in welling from the sanctity of its source it is apt to flow into distractingly cross currents and to tinge itself with strong individual traces of the particular channel through which it is drawn. To find the true pure stream is a little difficult without the assistance of those methods which purge error in the realms of science or philosophy ; and, at this time of day, no sensible man will deny their entire applicability to the refining process. An instance illustrative of this is presented to me though too late to notice in the body of this book.