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The John G Fleming Lecture: A brief history of accident law – tort and the administrative state – *Robert L Rabin*

This article is a slightly revised version of the inaugural John G Fleming Lecture, presented at the University of California Berkeley School of Law on 24 October 2011. The article offers a brief thematic development of the history of accident law in the United States, focusing on the evolution of both tort and the administrative state, as well as the interplay between these two systems of protection against the risks and consequences of physical harm. In particular, it addresses developments over the course of four distinct periods: the early industrial era to the close of the 19th century; the 20th century to the mid-1960s; the mid-1960s to 1980; and the late 20th century to the present day. 11

Difficulties with leaky building litigation – *Stephen Todd*

In New Zealand in recent years there has been a disastrous failing in the building and construction industry. The problem concerns "leaky building syndrome", which expression is used to describe, inter alia, poor design, inadequate provision for ventilation, the use of unsuitable or inadequate building materials and the adoption of flawed building techniques which in various combinations allow water to leak into and rot the structure of a building. The extent of the problem has led to a flood of litigation against builders, architects, engineers, local authority inspectors, the building industry regulator, building company directors and others involved in the construction of a leaky building. This article examines the relevant litigation and the difficulties that have been encountered in crafting the legal principles that should govern claims of this kind. 19

The truth and nothing but the truth? Revisiting legal liability of employers for negligent misstatements in employment – *Sam Middlemiss*

Recent important developments in case law in the United Kingdom which expand the liability of employers for making negligent misstatements about employees provide an opportune time to revisit the tort of negligent misstatements. This article concentrates on the nature and extent of the liability of an employer for (the delictual wrong of) breaching the duty of care owed to an employee through making negligent misstatements or misrepresentations about the employee. As will be seen from the analysis of these developments, the liability of an employer in this context will now extend to the making of derogatory or unfair statements about an employee outside the context of a reference. 35

Negligent navigation and causation conundrums: A case of reshuffling the Titanic's deck chairs? – *Douglas Hodgson*

Intervening causation issues, as a subspecies of causation law, can be quite complex and difficult to resolve judicially. Such issues can, and do, commonly arise across a broad spectrum of human activity, including in a maritime law context. Novus actus interveniens has been pleaded from time to time over the past 150 years or so in cases involving collisions between ships. The defendant responsible for a collision may argue exculpation from liability on the ground that temporally, between the initial collision and the eventual destruction or abandonment of the ship, there arose a chain-breaking novus actus interveniens. Such an intervening event may comprise an unreasonable or "unseamanlike" response to the emergency taken by the captain of the imperilled ship in mitigation of damage created by the defendant's negligence, an unreasonable or imprudent refusal by the former to accept timely assistance from the captain of the other ship or a third party, and intervening heavy weather or other extraordinary natural phenomena. This article examines leading maritime intervening causation cases with a view to identifying those criteria or factors which judges have found useful and have applied in resolving intervening causation issues in this field. It also considers whether, in cases involving the plaintiff's intervening negligence or recklessness, an application of contributory or comparative negligence legislation is more appropriate in determining the extent of the defendant's legal liability. 41