fairs, and a great market “ furnished from far on every quarter, being the most convenient place for occasions of king or county in those parts.” The Saturday market is still maintained, but the fairs have been altered to the third Saturday in March and the first Thursday in May. In 1643 Colonel Digby took up his position at Torrington and put to flight a contingent of parliamentary troops; but in 1646 the town was besieged by Sir Thomas Fairfax and finally forced to surrender. The borough records were destroyed by fire in 1724.

See *Victoria County History: Devonshire·,* F. T. Colby, *History of Great Torrington* (1878).

**TORSTENSSON, LENNART,** Count (1603-1651), Swedish soldier, son of Torsten Lenhartsson, commandant of Elfsborg, was bom at Forstena in Vestergötland. At the age of fifteen he became one of the pages of the young Gustavus Adolphus and served during the Prussian campaigns of 1628-29. In 1629 he was set over the Swedish artillery, which under his guidance materially contributed to the victories of Breitenfeld (1631) and Lech (1632). The same year he was taken prisoner at Alte Veste and shut up for nearly a year at Ingolstadt. Under Banér he rendered distinguished service at the battle of Wittstock (1636) and during the energetic defence of Pomerania in 1637-38, as well as at the battle of Chemnitz (1638) and in the raid into Bohemia in 1639. Illness compelled him to return to Sweden in 1641, when he was made a senator. The sudden death of Banér in May 1641 recalled Torstensson to Germany as generalissimo of the Swedish forces and governor-general of Pomerania. He was at the same time promoted to the rank of field marshal. The period of his command (1641-1645) forms one of the most brilliant chapters in the military history of Sweden. In 1642 he marched through Brandenburg and Silesia into Moravia, taking all the principal fortresses on his way. On returning through Saxony he well nigh annihilated the imperialist army at the second battle of Breitenfeld (Oct. 23, 1642). In 1643 he invaded Moravia for the second time, but was suddenly recalled to invade Denmark, when his rapid and unexpected intervention paralysed the Danish defence on the land side, though Torstensson’s own position in Jutland was for a time precarious owing to the skilful handling of the Danish fleet by Christian IV. In 1644 he led his army for the third time into the heart of Germany and routed the imperialists at Jüterbog (Nov. 23). At the beginning of November 1645 he broke into Bohemia, and the brilliant victory of Jankow (Feb. 24, 1645) laid open before him the toad to Vienna. Yet, though one end of the Danube bridge actually fell into his hands, his exhausted army was unable to penetrate any farther and, in December the same year, Tor­stensson, crippled by gout, was forced to resign his command and return to Sweden. In 1647 he was created a count. From 1648 to 1651 he ruled all the western provinces of Sweden, as governor-general. On his death at Stockholm (April 7, 1651) he was buried solemnly in the Riddarholmskyrka, the Pantheon of Sweden. Torstensson was remarkable for the extraordinary and incalculable rapidity of his movements, though very frequently he had to lead the army in a litter, as his bodily infirmities would not permit him to mount his horse. He was also the most scientific artillery officer and the best and most successful engineer in the Swedish army.

His son, Senator Count Anders Torstensson (1641-1686), was from 1674 to 1681 governor-general of Esthonia. The family became extinct on the sword-side in 1727.

See J. W. de Peyster, *History of the Life of L. Torstensson* (Pough­keepsie, 1855); J. Fefl, *Torstensson before Vienna* (trans, by de Peyster, New York, 1885); Gustavus III., *Eulogy of Torstensson* (trans, by de Peyster, New York, 1872). (R. N. B.)

**TORT** (Fr. for wrong, from Lat. *tortus,* twisted, participle of *torquere),* the technical term, in the law of England, of those dominions and possessions of the British Empire where the common law has been received or practically adopted in civil affairs, and of the United States, for a civil wrong, *i.e.* the breach of a duty imposed by law, by which breach some person becomes entitled to sue for damages. A tort must, on the one hand, be an act which violates a general duty. The rule which it breaks must be one made by the law, not, as in the case of a mere breach of contract, a rule which the law protects because the parties have made it for themselves. On the other hand, a tort is essentially the source of a private right of action. An offence which is punishable, but for which no one can bring a civil action, is not a tort. It is quite possible for one and the same act to be a tort and a breach of contract, or a tort and a crime; it is even possible in one class of cases for the plaintiff to have the option—for purposes of procedural advantage—of treating a real tort as a fictitious contract; but there is no necessary or general connexion. Again, it is not the case that pecuniary damages are always or necessarily the only remedy for a tort; but the right to bring an action in common law juris­diction, as distinct from equity, matrimonial or admiralty jurisdiction, with the consequent right to damages, is invariably present where a tort has been committed.

This technical use of the French word *tort* (which at one time was near becoming a synonym of *wrong* in literary English) is not very ancient, and anything like systematic treatment of the subject as a whole is very modem. Since about the middle of the 19th century there has been a current assumption that all civil causes of action must be founded on either contract or tort; but there is no historical foundation for this doctrine, though modified forms of the action of trespass— actions *in consimili casu,* or “on the case ” in the accustomed English phrase—did in practice largely supplant other more archaic forms of action by reason of their greater convenience. The old forms were designed as penal remedies for manifest breach of the peace or corruption of justice; and traces of the penal element remained in them long after the substance of the procedure had become private and merely civil. The transition belongs to the general history of English law.

In England the general scope of the law of torts has never been formulated by authority, the law having in fact been developed by a series of disconnected experiments with the various forms of action which seemed from time to time to promise the widest and most useful remedies. But there is no doubt that the duties enforced by the English law of torts are broadly those which the Roman institutional writers summed up in the precept *Alterum non laedere.* Every member of a civilized commonwealth is entitled to require of others a certain amount of respect for his person, reputation and property, and a certain amount of care and caution when they go about undertakings attended with risk to their neighbours. Under the modern law, it is submitted, the question arising when one man wilfully or recklessly harms another is not whether some technical form of action can be found in which he is liable, but whether he can justify or excuse himself. This view, at any rate, is countenanced by a judgment of the Supreme Court of the United States delivered in 1904. If it be right, the controverted question whether conspiracy is or is not a substantive cause of action seems to lose most of its importance. Instead of the doubtful proposition of law that some injuries become unlawful only when inflicted by concerted action, we shall have the plain proposition of fact that some kinds of injury cannot, as a rule, be inflicted by one person with such effect as to produce any damage worth suing for.

The precise amount of responsibility can be determined only by full consideration in each class of cases. It is important to observe, however, that a law of responsibility confined to a man’s own personal acts and defaults would be of next to no practical use under the conditions of modern society. What makes the law of torts really effective, especially with regard to redress for harm suffered by negligence, is the universal rule of law that every one is answerable for the acts and defaults of his servants (that is, all persons acting under his direction and taking their orders from him or some one representing him) in the course of their employment. The person actually in fault is not the less answerable, but the remedy against him is very commonly not worth pursuing. But for this rule corporations could not be liable for any negligence of their servants, however disastrous