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Wk 2: Trespass to the Person: Battery, Assault and False Imprisonment (18)

Direct vs Indirect Consequence

• Hutchins v Maughan [1947]

VLR 131

→ Trespass – Common elements of the cause of action: Direct vs indirect consequence

Facts	D laid poisoned bait on his unfenced land and warned P not to cross the land. P thought D was bluffing and brought his sheep and sheepdogs onto the land. P's dogs picked up the bait and died as a result. The police magistrate gave judgement for the plaintiff for this trespass claim and awarded him damages for the loss of the dogs. D appealed.
Held	SCV stated: ~ that trespass did not lie as the injury was consequential upon D's act and not immediately or directly occasioned ~ the injury and the interference was not direct but consequential ~ NAI → <i>an injury won't be direct, but merely consequential, when by reason of some obvious and visible intervening cause, it is regarded, not as part of D's act, but merely a consequence of it.</i>

• Southport Corporation v Esso Petroleum Co. Ltd [1954]

2 QB 182 (CA)

→ Trespass – Common elements of the cause of action: Direct vs indirect consequence

Facts	D's oil tanker was stuck in very shallow water due to weather conditions, a heavy load and a fault in steering. Hence, D discharged 400 tons of oil in order to free the tanker. The oil drifted onto P's land which included a marine lake ≈ 7 miles away. Due to this, the marine lake had to close until it had been cleaned at a substantial cost to P. P brought an action in negligence and nuisance. The trial judge found D not liable and P appealed.
Held	Appellate Court stated: (Morris LJ dissenting) ~ appeal allowed and D was found liable in negligence and public nuisance ~ D was found not liable in trespass as the tide operated as an intervening act, there was a lack of immediacy with the interference with P's land ~ it was not private nuisance as it did not involve D using any land to affect the enjoyment of P's land, but the use of a ship at sea ~ trespass to land was not found as there was no direct consequence due to D's actions ~ <i>natural forces of the sea drifting the oil across multiple kms across a period of time created an indirect consequence</i> ~ trespass to land: interference was not found as there was no direct result from D's act → there was no direct result from D's act because the interference was not characterised as part of D's act but due to natural forces

• Scott v Shepherd (1773)

2 W BI 892; 96 ER 525

→ Trespass – Common elements of the cause of action: Direct vs indirect consequence

Facts	D threw a lighted gunpowder squib (firework) onto a market stall. It was picked up and thrown by two other people, acting in self-preservation, and then exploded in the face of P putting out one of his eyes. P sued D for trespass and assault for throwing, casting and tossing the lighted squib. The jury returned a verdict in favour of P. D appealed.
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