

Nuisance

Standing (*Matherson v Northcote College*) interest (*Hunter*)
Hunter (Cooke) Occupation; control (*Foster*)

(A) Physical damage

Emanation (*Hunter*), descriptive (*BEMA*); natural force
(*Sedleigh-denfield*); *Thompson* prostitutes; *Greenwood* sunrays
Hunter (Cooke obiter) malicious building

Non-trivial *Halsey*

Super sensitivity (*Robinson*); except malice (*Silverfox*)

Causation (*Halsey*); Allowing to continue (*Delaware Mansions Ltd*; *Sedleigh-Denfield*); reasonable time to abate (*Delaware*)

Super sensitivity Ordinary use (*Robinson*)

Enjoyment

Locality (*Halsey*) Cars in urban area, clean air in city (*Halsey*)
Collective smoke in town, new smoke (*Cran in St Helen's*)

Nature (reasonable p) Smells must be more than trivial, noise:
intrusive, (*Halsey*) **Intensity, Frequency** *Greenwood*, **Timing**
(*Halsey*)

Malice *Christie*; definitive right" *Allen v Flood*; Vengeful malice
is not *Ibottson*

Coming to (*Miller*; *Struges*; *Fen Tigers*) changes property;
obiter (*Fen*)

Public interest (*Miller*; *Sturges*, *Fen*)

Injunction Partial (*Kennaway*), prevent nuisance (*Greenwood*)

Damages in lieu s13 Senior C 2016

Shelfer: small injury; estimated in money; adequately
compensated oppressive injunction. No DiL if malice (*Fen*)
Consider: business shut down *Antrim*; Public interest; (*Miller*;
Kennaway & Greenwood say no). Planning permission (*Fen*
Tigers) Come 2 (Cumming-Bruce LJ *Miller*)

Trespass

Act or failure to leave or
causing entry

Intentional Intent to act;

Fail to prevent a trespass
(*League*)

Direct not consequential

Greggory v Piper - rubbish
falling onto wall was direct
Esso Petroleum v Southport -
oil taken by tide was too
consequential

Defences

Implied license (*Robson*
Ex turpi causa (*Leason v AG*)
Standing *Hunter*

ASSAULT

Act: *Holcombe* words alone
Intended to cause plaintiff
to apprehend *Brady*;
Richardson

Conditional *Tuberville*: I
won't; *Greaves*: if you...

Means *Stephens, Brady*:
unaware *R v Kerr*

Intend to make the threat
Defences (See battery)

Battery

Application of force *Cole*; weapon, continuing *Fagan*

Intentional action (per se) *Moir*; *Bettel*; *Letang*

Hostility *Wilson* hostile intent or hostile action q of
fact; *West Berkshire* (doubts)

Direct *Letang* (no consequential)

Everyday life; *Wilson* Context

Defences

Consent: Necessity (balance against intrusion) *F v*
West Berkshire

Self-defence: reasonable *Cockcroft v Smith*; s 48

Crimes ACT Imminent and real risk of attack [*Ashley*]

Damages no foreseeability *Bettel*

False Imprisonment

Total restraint

Full restraint -> inconvenience)

More than mere awkwardness (*Brid*)

No justification

Person's protection

Murray- Did not say under arrest till leaving house to
prevent panic/ person escaping

Under contract *Robinson, Herd*

Justification *Brockhill*: can only be justified on grounds
the court will uphold as lawful

Arrest unlawful when court

Intentional,

Awareness?

Brockhill prison; could be asleep, drunk or unconscious/
unaware; *Meering* may lower damages

Damages; Nominal: no damage; **Compensatory**: bills,
Special quantifiable, **Aggravated** *Forde*, emotional
harm, hostility, **Vindictory** rights *Baigent* affirm
Exemplary make an example

Defamation

Charleston: **D**? *Sim*; *Youssouf*; *Parmiter*

ID: *Hulton*: of or concerning the plaintiff: *Morgan* reasonably acquainted; *Knupfer*; *Derbyshire* (councils); s 6 companies must show loss

Pub: *Pullman* must make known the words to any other person, other than the plaintiff, sending out of their control

Truth s 8 (3) (a), whole 8 (3) (b) *TVNZ v Haines* – plaintiff's

HO *Eyes* doubtful; *Clarke*: "deduction, conclusion, criticism, remark, observe" t/f

Genuine - Other persons: s10

Facts (s11), Submitted 2 pub *Kemsley*, No malice s10(3)

Absolute Privilege *Prebble v TVNZ*, *Jennings* now reversed

Qualified Privilege

Watt v Longsdon: legal, moral or social duty. Reciprocal duty, interest or common *Horrocks* Desire to injure. Recklessly published; Duty must play no significant part in the motivation S19. *Vickery*: alert police

Public interest privilege

journalist must be responsible *Reynolds*

Seriousness, nature (extent of concern), source integrity, attempts to verify, also under respectable investigation, urgency, both sides sought, contains gist of plaintiff's story, tone, circumstances (including timing) *Jameel* Didn't wait for response and was not responsible, must weigh up FoE/ public concern vs reputation *Bonicks* 10 Factors in *Reynolds* to be balanced

Lange (NZ) Exists when: published generally, concern of representative or responsible government, particularly if about MPs or Candidates; of public concern (6) Qualifying occasion i

Lost when: s 19; *Lange* responsible consideration applied by *CPA*

Statutory Qualified privilege

Sch 1 p 2 must be of public interest in at least one place *Ferryhead*; s 18

INJUNCTION *Auckland Area Healthboard*: no injunction unless no defence

Wilkinson v Downton *High standard, element of malice involved*

Conduct directed at the plaintiff *Rhodes*

Intentional Infer intention *Rhodes*,

Intended to cause severe distress *Rhodes* "so plainly calculated"

Cause a recognised psychiatric illness

Privacy

Hosking

Reasonable expectation of privacy (*Gault and Blanchard JJ*) or *information and material* (*Tipping J*)

Nature things which most people don't know, health, finances, activities which reasonable person considers private *Hosking*; more than general news (*Andrews*)

Where it was gathered Superstitiously (*Murray*)

No priv on street except vulnerable *Campbell, Peck*
Amplification (*Andrews, Campbell, Peck*)

Public figures Children: spills over from parents *Hosking*

Publication *Hosking, Andrews – Rogers doubts*

No Fragilities, Extent or tone is relevant

Failure to get consent isn't offensive

humiliating and embarrassing *Andrews*

Public concern – low standard *Shulman* logical connection

Murray approach

Breach of reasonable expectation

Depend on circumstances

Highly offensive if placed in the same position as the claimant and faced with the same situations

C v Holland

An intentional and unauthorised intrusion;

Into seclusion

Involving an infringement of a reasonable expectation of privacy

That is highly offensive to a reasonable person