

would the owner be committing an illegal act, and what would be his liability if the aviator were (a), injured; (b), killed.

(a) It is clear that if B. shot at A.'s aeroplane without warning and without taking any precautions he would be committing a criminal offence. It may, however, be argued that a prudent course would absolve the owner from any criminal liability arising from the consequences of his act. It may be said that the owner should, in the first place, fire a blank cartridge as an invitation to A. either to fly away or descend, just as a gunboat warns a foreign trawler fishing in prohibited waters by firing a blank shot across the bows of the offending craft. If a blank cartridge had no effect, B. should, before actually shooting at the aeroplane, fire ball cartridge past the aeroplane, so that the whistling of the bullet through the air might indicate to A. that B. was seriously determined to compel him to descend. Having taken the above preliminary steps, in addition to the precaution of engaging a skilled marksman and mechanician to shoot at the offending aeroplane, it may be argued that to fire at A.'s aeroplane would be neither an act of unnecessary violence, nor for that matter a criminal act at all.

The answer to this argument is that it is a felony punishable with penal servitude for life, unlawfully and maliciously to shoot (or even attempt to shoot) at a person with intent to maim, disfigure, disable, or do any other grievous bodily harm. Although there may be no intent to maim or disfigure, the object of the shooting is to disable the aeroplane, and there is sufficient mens rea, therefore, to constitute the above felony. It is a misdemeanour, also, punishable with five years' penal servitude, unlawfully and maliciously to wound any person, or inflict any grievous bodily harm upon him: and in *R. v. Ward*, L.R. 1 C.C.R. 356, it was held that a man who fired a gun at a boat with the object of frightening away the occupant, and who wounded him owing to the boat being suddenly slewed round, was rightly convicted of malicious wounding. It does not appear from the report of the case that the prisoner was the owner of the water upon which the boat was, nor that he was enforcing a