

2nd. *Wrongs to property, i.e., trespasses to lands, goods and proprietary rights;*

3rd. *Wrongs arising to the person, or property, through negligence(b).*

The theory of responsibility referable to each of these three groups is distinctive. In the first, it proceeds upon the principle that one who intentionally injures another must answer therefor in damages. In other words, the subjective element of intention, a "state of mind" in which the wrong-doer contemplates the probable consequences of his act and desires them to follow upon it, must always accompany the wrongful act in cases falling under the first group. In the second group, the theory of responsibility is highly technical and peculiar. It would seem to proceed wholly upon the principle that a legal right has been invaded, without contemplating the cause or effect of such invasion. It is not necessary in such cases to shew that the defendant was either "sciens" or "volens" in respect of doing the act which constitutes the trespass. As was said by Lord Camden in *Entick v. Carrington(c)*, "by the laws of England every invasion of private property, be it ever so minute, is a trespass. No man can set his foot upon my ground without my license, but he is liable to an action, though the damages be nothing." And so with regard to trespass to goods; if the trespass involves a deprivation of possession to such an extent as to be inconsistent with the rights of the owner, the circumstances amount to a conversion. "It is now settled law that the assumption and exercise of dominion over a chattel for any purpose or for any person, however innocently done, if such conduct can be said to be inconsistent with the title of the true owner, it is a conversion"(d).

(b) We have made no reference in the text to the doctrine of liability for nuisance, because it has no bearing on the main question under discussion, and we do not wish to unnecessarily add to the difficulties of mastering an abstruse subject. Nuisance is in some respects coincident with trespass, and in others it resembles negligence; but it differs from both in its salient features, and holds a substantive place in the law of torts. See Underhill on Torts, 7th ed., p. 325; Jaggard on Torts, chap. xi., p. 745, et seq.

(c) 19 St. Tr. at p. 1066.

(d) Per Harrison, C.J., in *Duffell v. McFall*, 41 U.C.R. at p. 320.