

The Case of the Thorns is one of the earliest English Torts cases. It has been preserved in various forms in various texts. The following version is from the summary of the case as set out in *Bessey v. Olliot & Lambert*, T. Raym. 467 (1681).

***The Case Of The Thorns*, Y.B. 6 Ed. 4, f. 7, pl. 18 (K.B. 1466)**

A man brought a writ of Trespass *quare vi et armis clausum fregit, & herban suam pedibus conculcando consumpsit* in five Acres. The Defendant pleads, that he hath an Acre lying next the said five Acres, and upon it a hedge of Thorns, and he cut the Thorns, and they, against his will, fell upon the Plaintiff's Land, and the Defendant took them off as soon as he could, which is the same Trespass; and the Plaintiff demurred; and adjudged for the Plaintiff; for though a Man doth a lawful Thing, yet if any damage do thereby befall another, he shall answer for it, if he could have avoided it. As if a Man lop a Tree, and the boughs fall upon another against his will yet an Action lies. If a Man shoot at the Butts, and hurt another unawares, an Action lies. I have Land through which a River runs to your Mill, and I lop the the Sallows growing upon the Riverside, which accidentally stop the Water, so as your Mill is hindered, an Action lies. If I am Building my own house, and a Piece of Timber falls on my Neighbour's house and breaks Part of it, an Action lies. If a Man assault me, and I lift up my Staff to defend myself, and in lifting it up hit another, an Action lies by that Person, and yet I did a lawful Thing. And the Reason of all these Cases is because he that is damage ought to be recompensed. But otherwise it is in Criminal Cases, for there *actus non facit reum nisi mens sit rea*.

[Editor's notes: The Latin phrase *herbam suam pedibus conculcando consumpsit* roughly translated means "trampled and damaged the vegetation." The Latin phrase *actus non facit reum nisi mens sit rea* roughly translated means "an act does not make one guilty unless there be a guilty mind."]