

Please put your name here: _____ and return this sheet.

PRIVILEGES TORTS QUIZ

Prof. Bell

NOTE: Choose the one best answer to each question, applying the Restatement of Torts (2d) and relevant case law. As on the MBE, you have 1.8 minutes/answer.

Question 1

A robber wielding a gun threatened Ann and Bob in a dark alley. When Ann called for help, the robber pointed his gun at her and replied, "Help yourself-to some lead!" She pulled Bob in front of her and he was struck by the robber's bullet, leaving Ann unharmed. Bob brought suit against Ann for battery. What result?

- (a) Bob wins because Ann intentionally touched him without his consent, causing harm.
- (b) Ann wins because her use of force was reasonably necessary to prevent her from suffering harm.
- (c) Bob wins because Ann's privilege of self-defense would have permitted her to use force only against the robber—not against Bob.
- (d) Ann wins because she did not touch Bob voluntarily.

Question 2

Under the same facts as Question 1, Ann raises a defense of private necessity. What result?

- (a) The defense fails because the defense excuses only torts inflicted on property—not those inflicted on persons.
- (b) The defense succeeds because Ann is indistinguishable from the plaintiff in *Ploof v. Putnam*.
- (c) The defense fails because she would still have to pay damages for her use of Bob's body.
- (d) The defense succeeds because, were both bodies under a common owner, Bob would still have to take the bullet.

PRIVILEGES TORTS QUIZ--ANSWER KEY

1.
 - (a) is wrong because, while right as a statement of law, it does not overcome the force of (d).
 - (b) is wrong because it misstates the law; see (c) for a corrective.
 - (c) is wrong because, while right as a statement of law, it does not overcome the force of (d).
 - (d) is right because this case is closely like that of *Laidlaw v. Sage*. Indeed, it is an easier case, since the defendant in that case acted with comparative calculation; Ann acted rashly, in great fear.

2.
 - (a) is right, though, admittedly, it is a bit conclusory.
 - (b) is wrong because, of course, we have a person at stake, here—not a dock.
 - (c) is wrong because the defense might still succeed in, say, forestalling punitive damages. (It is right, however, insofar as it describes the liability of Ann for damages for her use of Bob's body for reasons of private necessity.)
 - (d) is wrong because it is not at all obvious Bob should, even under the rather disturbing assumption that people can be owned, be the one to take the bullet.