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**Cole v Turner**

1 January 1704

**(1704) Holt, K.B. 108**

**90 E.R. 958**

1704

**[108]**Battery .

Pasch. 3 Ann.

6 Mod. 149.

At Nisi Prius, upon evidence in trespass for assault and battery, Holt C.J. declared, 1. That the least touching of another in anger is a battery. 2. If two or more meet in a narrow passage, and without any violence or design of harm, the one touches the other gently, it is no battery. 3. If any of them use violence against the other, to force his way in a rude inordinate manner, it is a battery; or any struggle about the passage, to that degree as may do hurt, is a battery. Vid. Bro. Tresp. 236. 7 E. 4,26. 22 Ass. 60. 3 H. 4, 9.

Note; It was in action of battery by husband and wife, for a battery upon the husband and wife, ad dampnum ipsorum; and though the plaintiff had a verdict, yet the Chief Justice said, he should never have judgment. And judgment was after arrested above upon that exception.

Holt, K.B.

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