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Table of Contents - Issue 3

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CONTENTS

SYMPOSIUM ON CAUSATION IN THE LAW OF TORTS

MARIO J. RIZZO
SYMPOSIUM EDITOR

FOREWORD

FUNDAMENTALS OF CAUSATION

Mario J. Rizzo 397

In his Foreword to the issue, editor Mario J. Rizzo sets out the basic problems to which almost any theory of causation must address itself. He discusses the nature of causal connections, the interrelation between causal and rights claims, the distinction between policy and "commonsense" views of causation, probabilistic causes, and the difference between the fact of causation and the evidence of causation.

CAUSATION AND WRONGDOING

Ernest J. Weinrib 407

Professor Weinrib examines the place of causation in negligence law. He suggests that causation and wrongdoing are conceptually connected and that this connection allows negligence law to be understood non-instrumentally as an expression of corrective justice. (Principal Paper)

PROPERTY, WRONGFULNESS AND THE DUTY TO COMPENSATE

Jules L. Coleman 451

Professor Coleman critically analyzes Weinrib's claim that wrongdoing and causation are conceptually connected. He then defends his own thesis that wrongful gain and wrongful loss are not normatively connected against objections to that view raised by Weinrib. (Commentary)

CAUSALITY AND RIGHTS: SOME PRELIMINARIES

Judith Jarvis Thomson 471

Professor Thomson surveys some issues that require attention if we are to understand how the fact that a person caused a harm bears on the question of whether he infringed a right. (Principal Paper)

THOMSON'S PRELIMINARIES ABOUT CAUSATION AND RIGHTS

Michael S. Moore 497

Professor Moore seeks to elaborate on and defend the philosophically realist metaphysics about causation that he sees to be presupposed by Thomson. He questions the criticisms that both Kelman and Thomson advance against the counterfactual version of the test for causation, finding both criticisms to be wanting. Yet he concurs with them in doubting whether the causal relation is discriminating enough to be the basis for the assignment of rights in society. (Commentary)

**TORTS AS THE UNION OF LIBERTY AND
EFFICIENCY: AN ESSAY ON CAUSATION**

Robert Cooter 523

Professor Cooter suggests that there is a natural link between liberty and Pareto efficiency. Basic tort rights are part of the initial distribution of resources that is the starting point of an efficiency analysis. The efficiency analysis shows how to increase the value of these basic rights as measured by the preferences of the people who enjoy them. Thus, economic models of tort law should be understood as the union of liberty and efficiency. (Principal Paper)

**THE EFFICIENCY THEORY OF CAUSATION AND
RESPONSIBILITY: UNSCIENTIFIC FORMALISM
AND FALSE SEMANTICS**

Richard W. Wright 553

Professor Wright argues that liberty and the efficiency theory are fundamentally irreconcilable. He asserts that the efficiency theory is based on an unscientific formalism and an habitual misuse of basic concepts, both of which are especially evident in the legal economists' discussions of causation. (Commentary)

**THE NECESSARY MYTH OF OBJECTIVE
CAUSATION JUDGMENTS IN LIBERAL
POLITICAL THEORY**

Mark Kelman 579

Professor Kelman asserts that the liberal theories of tort liability, including the libertarian and efficiency theories require high levels of certainty on the existence and extent of causation of harm. He argues that there is neither an acceptable *definition* of cause nor an acceptable means of resolving the problem of factual ambiguity, so the liberal dream is a nightmare. (Principal Paper)

**CAUSATION IN PRIVATE TORT LAW:
A COMMENT ON KELMAN**

Alan Schwartz 639

Professor Schwartz suggests that the empirical problems are not as serious as Kelman claims, and that, while the corrective-justice theory, with its determinate concept of causation, is problematical, the efficiency theory, with its probabilistic concept of causation, is not. He notes that under any scheme, including Kelman's, one must rely upon causal judgments. (Commentary)

**CAUSATION—IN CONTEXT:
AN AFTERWORD**

Richard A. Epstein 653

In his Afterword to the symposium, Professor Epstein comments on the articles of the principal contributors and analyzes the place that theories of causation occupy in the larger scheme of tortious liability. While no theory of tort liability is complete without its own account of causation, tort liability can only be fully understood if causation is placed into its larger doctrinal and functional context. Ultimately the full panoply of tort rules cannot be derived from any abstract conception of formal justice, but depends upon the favorable consequences these rules produce for the parties they govern.

THE KENNETH M. PIPER LECTURE

DRUG TESTING IN THE WORKPLACE:
THE CHALLENGE TO EMPLOYMENT
RELATIONS AND EMPLOYMENT LAW

Mark A. Rothstein 683

CASE COMMENT

USE TAX COLLECTION JURISDICTION:
RETAIL STORES ON A STATE BORDER
HELD HOSTAGE: *GOOD'S FURNITURE*
HOUSE, INC. v. IOWA STATE
BOARD OF TAX REVIEW

Chris M. Amantea 747

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