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## Legislation (Fall 1958-1959)

William & Mary Law School

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I

The Federal statutes 49 U.S.C.A. 781-788 provide for the seizure and forfeiture of carriers transporting contraband articles. The provisions of law relating to customs cases are made applicable to contraband, one of the most important being that if the government shows "probable cause" for seizure the burden of proof to the contrary is placed on the claimant. Under 49 U.S.C.A. 781 "contraband article" means any firearm, with respect to which there has been committed any violation of any provision of the National Firearms Act, as now or hereafter amended." The National Firearms Act has been repealed, but its provisions have been substantially carried over into the Revenue Code but no longer under the name National Firearms Act. Under the Revenue Code a tax is imposed and registration is required of "sawed off shotguns". One X was found walking on the street carrying something suspicious under his arm which on investigation by the police turned out to be an untaxed and unregistered broken "sawed off shotgun". X pleaded guilty to carrying a concealed weapon. At the same time he made a signed statement that he had transported the gun in an automobile registered in his name found nearby. The finance company, holding legal title to the automobile, filed an answer in the forfeiture proceeding for the automobile claiming: 1. The National Firearms Act has been repealed and the reference thereto is now meaningless; 2. There was no probable cause for the seizure since X is no longer available to testify and the only evidence is his written statement.

Discuss the contentions and state how you think the case should be decided.

II

Plaintiff milling company brought an action to recover the federal excise tax it had been required to pay on transportation by rail of its goods from one point in the United States to another. The statute provided a tax "upon the amount paid within the United States for the transportation of property by rail, etc., from one point in the United States to another." The carrier had an agent in Vancouver B. C. who presented the bills to an employee of the plaintiff in Vancouver B. C. who gave checks drawn on a Vancouver Bank where the plaintiff had an account. This system was set up because of the wording of the statute. Is plaintiff required to pay the tax? Explain.

III

A Georgia statute provides: "A licensee is a person who is neither a customer, nor a servant, nor a trespasser, and does not stand in any contractual relation with the owner of the premises, and who is permitted expressly or impliedly to go thereon merely for his own interest, convenience or gratification. The owner of such premises is liable to a licensee only for wilful or wanton injury." A father carried a nine-month old infant into a bakery shop. Does the statute apply to the infant? Explain.

IV

A state legislature provided a schedule of minimum salaries for school bus drivers with a provision that those who hold contracts during 1951-52 should receive \$50.00 a month in addition. Plaintiff who had a contract during 1951-52 seeks to require the school board to pay him this additional amount of \$50.00 for 1954, 1955 and 1956. Is he entitled to it? Explain.

V

Plaintiff was injured riding in his own automobile while it was being driven by someone else. He sues the defendant driver and the driver defends on the ground that the guest statute applies and he was not guilty of wilful or wanton misconduct while driving the automobile. How should the statute be construed? Explain.