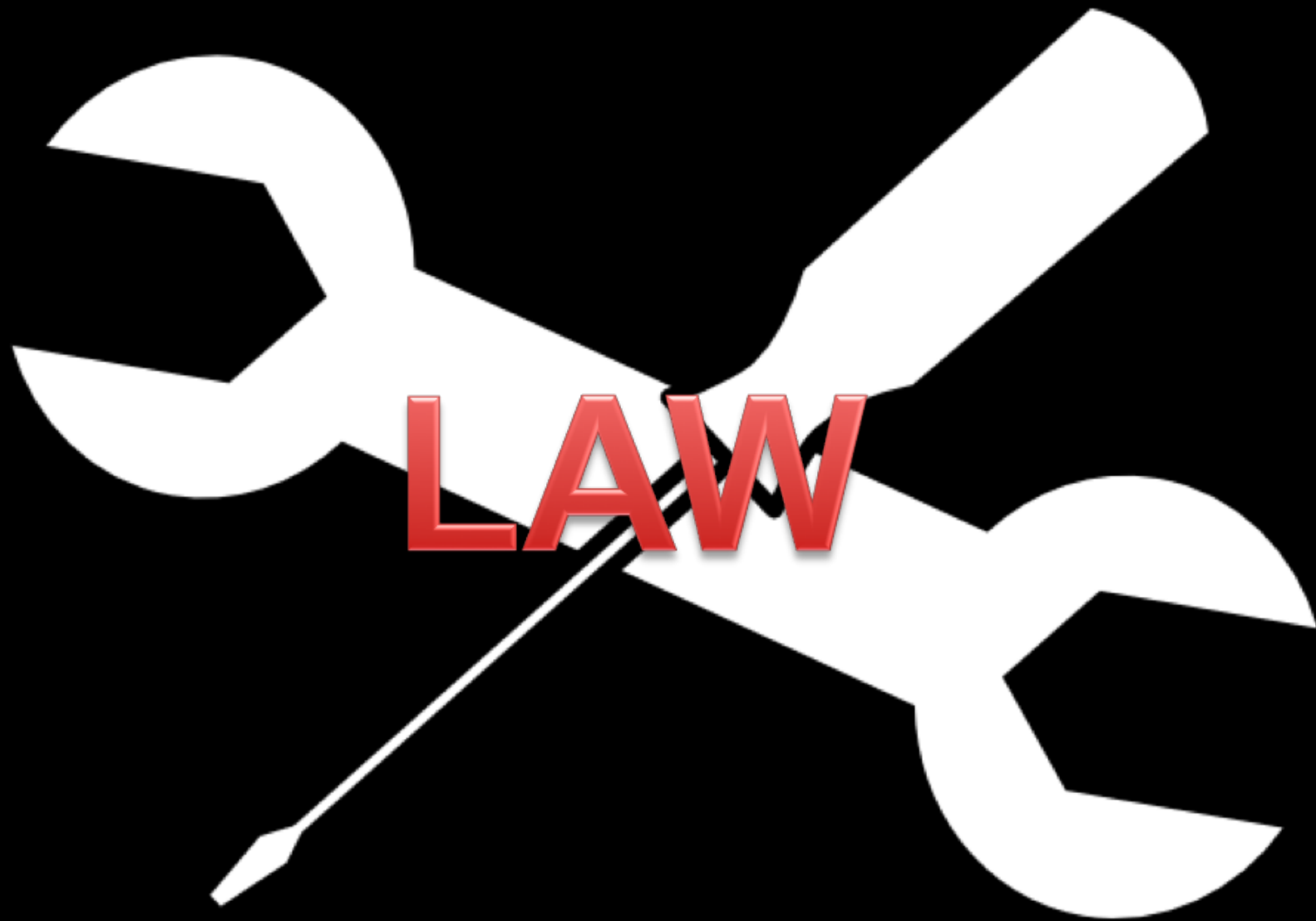


# *Procedure*

## *Substance*

- **Subject Matter Topics**
- **Bigger Things**
  - **Common Law and Precedent (Stare Decisis)**
  - **Thinking Like a Lawyer**



## Armory *vers.* Delamirie.

*In Middlesex coram Pratt C. J.*

**T**HE plaintiff being a chimney sweeper's boy found a jewel and carried it to the defendant's shop (who was a goldsmith) to know what it was, and delivered it into the hands of the apprentice, who under pretence of weighing it, took out the stones, and calling to the master to let him know it came to three halfpence, the master offered the boy the money, who refused to take it, and insisted to have the thing again; whereupon the apprentice delivered him back the socket without the stones. And now in trover against the master these points were ruled:

1. That the finder of a jewel, though he does not by such finding acquire an absolute property or ownership, yet he has such a property as will enable him to keep it against all but the rightful owner, and consequently may maintain trover.

2. That the action well lay against the master, who gives a credit to his apprentice, and is answerable for his neglect.

3. As to the value of the jewel several of the trade were examined to prove what a jewel of the finest water that would fit the socket would be worth; and the Chief Justice directed the jury, that unless the defendant did produce the jewel, and shew it not to be of the finest water, they should presume the strongest against him, and make the value of the best jewels the measure of their damages: which they accordingly did.

“[F]inder . . . keep[s] it against all but the rightful owner” *Armory v. Delamirie*

- *Why Does Armory Win Under This Rule?*
- *What is a “rightful owner”?*
- *What is a “finder”?*

“[F]inder . . . keep[s] it against all but the rightful owner” *Armory v. Delamirie*

HYPOTHESIS

- Lord Hobnob loses jewel
  - Armory finds jewel
  - Delmairie gets the jewel
  - Does this change anything?
  - Lord Hobnob’s rights compared to Delmairie? Armory?
- 
- Does the holding in *Armory* solve this?

“[F]inder . . . keep[s] it against all but the rightful owner” *Armory v. Delamirie*

## **HYPOTHESIS**

- Clark finds logs
- Clark loses logs
- Maloney finds logs
- Clark or Maloney?
  - Reasons for Clark getting it?
  - Reasons for Maloney getting it?
  
- Does the holding in *Armory* solve this?

**“[F]inder . . . keep[s] it against all but the  
rightful owner” *Armory v. Delamirie***

**“[Current Possessor] keep[s] it against all but  
the [Prior Possessor]”**

“[Current Possessor] keep[s] it against all but the [Prior Possessor]”

- Why?
  - Public Order
  - Maximizes Utilization
  - Evidentiary Convenience
  - Return to Original Possessor
  - Reward Effort/Labor
  - Codifies Current Social Norms
- What if prior possessor obtained illegally (trespass?)



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**“[Current Possessor] keep[s] it against all but the [Prior Possessor]”**

**Remedies:**

- Trover
- Replevin

“[F]inder . . . keep[s] it against all but the rightful owner” *Armory v. Delamirie*

“[Current Possessor] keep[s] it against all but the [Prior Possessor]”

### *Bridges v. Hawkesworth*

- *What is the Holding?*
- *Does the court simply follow Armory or change/ignore it?*

“[Current Possessor] keep[s] it against all but the [Prior Possessor]”

### *Bridges v. Hawkesworth*

- What About *Merry v. Green*? [427]
- What if *Armory* found them in a house he was sweeping? [428]
- Bundle in Inn Hypo [428]



“[Current Possessor] keep[s] it against all but the [Prior Possessor]”

### *South Staffordshire v. Sharman*

- *What is the Holding?*
- *Does the court simply follow Armory and/or Bridges or change/ignore them?*
- *What if it was a public pool?*
- *What if the rings are found on a table by the pool?*

“[Finder] keep[s] it against all but the rightful owner” *Armory v. Delamirie*

“[Current Possessor] keep[s] it against all but the [Prior Possessor]”

- custody/control (*Bridges and South Staffordshire*)
- lost/mislaid (*Bridges*)
- attached to/or under (*South Staffordshire*)





## *Hannah v. Peel*

- How does the case interpret *Bridges*?
- How does the case interpret *South Staffordshire*?
- What is the holding?
- Does the court make new law?

“[Finder] keep[s] it against all but the rightful owner” *Armory v. Delamirie*

“[Current Possessor] keep[s] it against all but the [Prior Possessor]”

- custody/control (*Bridges and South Staffordshire*)
- lost/mislaid (*Bridges*)
- attached to/or under (*South Staffordshire*)

## *Hannah v. Peel*

- Attached to or under – constructive possession
- If not . . .
  - “Lost” – no constructive possession
  - Good faith relevant???
  - Physical possession of locus relevant

## *McAvoy v. Medina*

- *Which Rule of Law Does the Court Apply?*
- Is this a better approach than
  - *Hannah v. Peel?*
  - *Our interpretation?*
  - *What is the “right” approach?*