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T. C. Williams School of Law, University of Richmond: Torts II Exam, 27 May 1933

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T.C. WILLIAMS SCHOOL OF LAW
University of Richmond

TORTS II Examination

May 27, 1933

Discuss each point raised whether it has any bearing on outcome of case or not. Give full reasons for all conclusions.

1. The Ace Wheel Co., a manufacturer of automobile wheels, has extensively advertised the fact that the King Motor Co. uses its wheels. The Ace Co. sold some wheels to King Co. which it installed in its cars. A particular wheel, installed in one of the King cars, was defective, the defect being due to the careless work of the employees of the Ace Co. who assembled the wheel. The defect could have been discovered by the King Motor Co. had it used reasonable care in inspecting the wheel before it was placed on the car. The car was sold by the King Co. to the Queen Distributing Co. whose business it was to buy and sell new cars, including the King cars, to supply the local demand. The car was purchased by the Dimano Cigarette Co. and, according to the annual custom was presented to Jack, the home run king of the local baseball club. Jack says to Vulnerable, a friend who is present, "If you'll go with me, we'll try it out." Vulnerable assents. They drive out. Vulnerable soon falls asleep. While driving carefully, Jack's car collides with a car which is being carelessly driven by Honors, the impact causing the defective wheel to collapse, which it would not have done had it not been defective. The collision injures the occupants of the King car and also a bystander, Rubber. What are the rights and liabilities of all the parties? Why? Trace the history and development of the doctrine suggested by the possible liability of the King Co. to Jack.

2. A uses a small pond on his land as a skating place for himself and friends. Children of the neighborhood also come, against A's sporadic protests. When the ice is thick enough A cuts some in the center for summer use. This "skims over" during the following cold night. The next day, not knowing of the cutting and not being otherwise warned of the thinness of the ice, three persons fall in: (1) B, a friend; (2) C, a boy of nine, a visitor in the town; and (3) D, a policeman taking a short cut to A's house to arrest him. Is A liable to any of those? Why, or why not? Assuming that A is liable to someone, suppose that that one is not otherwise injured except shaken up and the excitement combined with a weak stomach induced a vomiting spell. To what extent would A be liable? Why?

3. For the health of both, Senior took his six-year old child, Junior, for a walk in a small village. Senior met a friend and while the two were conversing, Junior went into the street in front of an approaching unlicensed automobile, was struck by it and was caught by the bumper attached to the front of the car. Junior clung to the bumper while the car went some distance, but finally he fell off, was run over and was injured. The driver of the car did not see Junior's predicament but had he done so he could have stopped the car before Junior lost his hold on the bumper. The driver takes Junior in the car but fails to stop at the first town at which there is a doctor. Two hours later they reach the first town in which there is a hospital. Junior is immediately taken to the hospital but refuses to permit a foot amputation as a result of which it is later necessary to amputate his leg above the knee. Neither the foot amputation nor the leg amputation would have been necessary had Junior been left at the first town. Actions are brought against the driver by (1) Junior, through his father as next friend, for his injuries, and (2) Senior to recover for his own mental anguish, as well as for the medical expenses involved and the loss of Junior's services. What result in each? Why?

4. White plants on his land, ten feet from the road, a bush, the berries of which are luscious looking but poisonous. Five years later he sells the land to Black who, on going to Europe, invites his friend Blue to occupy the house and grounds for the summer. In July While the bush is bearing fruit, Green, a child of seven, enters in pursuit of a ball. Seeing the berries he eats some as a result of which he is made ill. Discuss in detail the liability of White, Black and Blue.

Threats
Viol of St.
Rescue
Officer duty
W. & A.
Sick for
Animals

5. A is walking on a road near a railway track when his hat blows upon the track. A pursues and captures it and walks along the track toward a crossing with a highway 100 yards distant. Being deaf he does not hear the train approaching from the rear. The engineer is not looking and fails to give the statutory signals. The fireman sees A in ample time to avoid the injury but on account of the noise cannot make the engineer understand. The fireman knows nothing about the operation of railroad engines. B, a tramp, walking on the other track in the opposite direction, sees A's danger and heroically tries to save him. Both A and B are injured and taken to the railroad company's hospital. C, a person employed by the company to guard and nurse them, falls asleep while on duty. A and B, who are delirious, thereupon escape. A wanders on D's premises and frightens E, D's wife, and then while still on D's land, jumps from a high cliff and is badly injured. B wanders on F's premises and opens the gate to F's managerie allowing two animals, a horse and a small monkey, to escape. The animals cross G's field of growing corn and go upon the highway where the horse bites H and the monkey scares I, a child of two. Discuss the rights and liabilities of all the parties.

6. P, believing it to be advantageous for his friend, Q, to purchase shares in the R Company, writes Q that it is producing oil. P believes this, having been told so by S, the stock salesman of the R Company in selling shares to P. S knows it is not true but believes oil will be struck. Q shows P's letter to T who promptly purchases 100 shares. Upon being informed by his bank that the R Company has a large amount on deposit, Q sends a check to R asking for 100 shares which R immediately sends him. Two days later oil is struck but the cashier of the company absconds with its cash and the shares drop 50 points. Discuss the rights of Q and T.

END.