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# T. C. Williams School of Law, University of Richmond: Torts I Exam, 25 Jan 1939

University of Richmond

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T. C. WILLIAMS SCHOOL OF LAW  
University of Richmond

TORTS I Examination

January 25, 1939.

Professor Muse

1. Jesse, who was armed with an unloaded pistol, pointed it at James and said, "If you pay me the \$ 5 you owe me, I'll not shoot". James, who did not know whether the pistol was loaded or not, struck at Jesse with a heavy cane, whereupon Jesse, believing that he could not safely escape the blow by retreating, struck James over the head with the butt of the pistol, knocking him unconscious. James in fact owed Jesse \$ .5. Discuss the liability each to the other.

2. The Martins and the Coys live upon adjoining lots. Upon the boundary between the lots is a tight board fence; a part of which was built by Mr. Coy; but, unfortunately, this barrier, while all sufficient to prevent the passage of the dove of peace, is neither high enough nor tight enough to prevent the interchange of brickbats or the bandying of opprobrious epithets. On May 30 Mr. Martin, while at work in his garden, narrowly escaped, by dodging, a brick hurled in his direction by one of the Coy children, Ethelbert, aged 6. In his indignation at the unprovoked bombardment, Martin threatened the lad with arrest. Mr. and Mrs. Coy, being at work nearby, heard the threat and took up the quarrell. About this time Coy discovered that a ladder belonging to Martin was leaning against Martin's side of the fence and extending above it, and, conceiving this to be a cloud upon his title, he forthwith attempted to remove it, while Martin, seeing the peril in which his property was placed, rushed to its defense. At this point Mrs. Coy came to the aid of her husband. She climbed upon a convenient stump, and, hanging herself across the fence, reached down, seized the ladder and wrenched it from Martin's grasp. Thereupon, actuated by a desire to protect his property from such ravishment, and being goarded on by statements from the other side of the fence reflecting upon his mother<sup>and</sup> casting doubt upon his proper rank in the animal kingdom, Martin, with his clenched fists, struck Mrs. Coy's arm which protruded over the fence top into his domain. ~~Trace the rights and liabilities of all the parties through this series of events.~~

*What torts, if any, have been committed in this series of events? Why, or why not? In each instance state by whom and against whom the tort has been committed.*

3. To evade war duty, Arnold persuaded Dr. Rhythm to amputate his trigger finger. Although the operation was carefully and skillfully performed, gangrene set in and threatened Arnold's life. At the prospect of death and fearing discovery of his cowardly deed, Arnold proposed to "end it all" by taking poison, which he did. Upon learning that Arnold had taken poison, and fearing he would be held in connection with the death, Dr. Rhythm, over Arnold's violent protests, performed a major surgical operation on Arnold's stomach to remove the poison, and at the same time he performed a minor internal operation which checked the spread of gangrene. Arnold's life was thereby saved, and he now brings an action of battery against Dr. Rhythm for the amputating of his finger and for the stomach operation.

- (a) Give the present status of the law applicable to these two situations.
- (b) Give the historical explanation of, and theories in support of, the law stated in (a).
- (c) Suppose the case to be one of first impression in your jurisdiction, how would you decide it? Give full reasons.

4. Ford keeps in his desk drawer at his factory a quantity of sleeping powder for his own use and a quantity of sneezing powder for use in case of sit-down strikes. Lewis, in breach of his contract of employment, quit work at noon and announced his intention of leaving and never again working for Ford. Ford thereupon locked the door and refused to allow Lewis exit until Lewis repaid him a past due \$ 10 debt. Although a few minutes later Ford changed his mind, opened the door, and said, "Get out, and you can keep the \$ 10", Lewis became angry and then said he would sit at his machine inactive until 5 P.M. In an effort to eject him Ford sprayed what he thought was sneezing powder into the room, but, by mistake, he used sleeping powder. Ford promptly forgot the whole incident and left. As usual the factory was locked at 5 P.M. Lewis, being asleep, was unnoticed and locked in. At 4 A.M. Lewis awoke and knew he could call the night watchman and be released, but decided to spend the night and walk out when the factory opened in the morning, which he did. What are the rights and liabilities in tort of Ford and Lewis inter se?

5. At the point of a gun Dunn was forced by an unknown, masked man to set fire to Prune's house which was located in a congested urban area. Upon discovery of the fire, Prune requested the aid of Date to extinguish it but was refused. Ten minutes later, when the blaze had got beyond control, Date saw that the fire was about to be communicated to Pugh's house and, if it did, would endanger ten or fifteen blocks of frame houses including one belonging to him. Date dynamited Pugh's unoccupied house and thereby prevented the spread of the fire. Prune sues Dunn and Pugh sues Date.

- (a) State the common law governing these two cases.
- (b) If you think the common law arrives at the correct solution in each case, give your reasons.
- (c) If you think the common law to be inadequate in either case, what improvements would you suggest? Give reasons for each change suggested.

END.