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T. C. Williams School of Law, University of Richmond: Torts Exam, 22 May 1940

University of Richmond

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UNIVERSITY OF RICHMOND LAW SCHOOL

TORTS Examination

May 22, 1940.

Professor Muse

1. A enters B's land to rescue from a barbed wire fence a stray dog which was caught thereon. Seeing him there, B orders him from the land and, upon A's refusal to leave, B threatens to hit him with an ax which he has in his hand. A thereupon draws a revolver with which he threatens to shoot B. B retaliates by throwing the ax at A. The ax misses A but strikes C who, unseen by both A and B, has come up to try to settle the difficulty. Discuss the liability of A and B.
2. A and B meet on the street and engage in mutual combat. A is injured and brings action against B in a court of State M of which you are judge. Assuming it to be a case of first impression in State M, what judgment? Why?
3. X maintains in a secluded place a store-house for high explosives in connection with a munitions factory. Y has a contract to build a road in the neighborhood and is using tractors which, although carefully operated, at times give forth sparks which are blown to some distance. One of the sparks ignites explosives that are being carried into X's store-house and sets fire to the store-house, causing an explosion which breaks all the glass in plaintiff's greenhouse a mile off. Plaintiff brings separate actions against X and Y. What is their liability?
4. B street in the State of M is substantially like Broad Street in Richmond except that there are no overhead trolley lines, no lamp posts in the center of the street, and the safety islands are elevated six inches. A city ordinance forbids driving vehicles other than street cars between the safety islands under penalty of \$5 fine and a like ordinance forbids parking between island and curb under similar penalty. C parks between an island and the north curb to facilitate a heavy loading operation from an adjacent store which will take five minutes. A twin island is located on the south side of the street directly opposite the other island. These islands are not at an intersection. D, driving a truck westward, sees that he will be unable to pass north of the islands. When he first grasps the situation, he might, by turning through an arc of 135 degrees counterclockwise, cut through a side street and detour around a block. D, however, drives between the islands at a speed of 15 m.p.h. and strikes P, who has, a half-second previously, stopped between the islands while reading a newspaper. If you had your choice of clients, whose case would you choose, that of P, C, or D? Why?
5. Just as A, an insurance agent, is about to have P, a prospect, sign on the dotted line, A opens a new package of cigarettes, tightly wrapped and sealed, of the defendant's manufacture, which he had purchased from a dealer in the ordinary channels of trade, and passes them to P. P takes one and lights it, whereupon it flares up into tiny sparks and greenish-blue flame burning his face and damaging his shirt. Because of the incident P refuses to sign up with A. P sues the defendant alleging the above facts. Defendant demurs. How would you rule on the demurrer? Why? Does A have a cause of action against defendant? Why, or why not?
6. A city ordinance requires the property occupier to remove the snow and ice from the sidewalks abutting his property. On the occasion in question D had cleaned the sidewalk in front of his store by leaving ridges of snow which melted and froze forming an uneven surface. C, a customer of D's of long standing, after making some purchases in D's store, fell upon the ice and snow in front of D's store and broke her thigh. May C recover from D for her injuries? Why, or why not?

7. While driving carefully just before dark, to avoid running into a small child who has run in front of the car, A drives into a light pole standing on the curb, knocking it down into the street. He leaves it where it falls. Subsequently B, the driver of another car, after running into it and damaging his fender, moves the pole to the sidewalk, where later in the evening C, a pedestrian, stumbles over it and is hurt. Discuss the liability of A and B.

8. During labor trouble A publically calls B, an employee, "a labor agitator". The same night B throws a brick through the window of A's house. A's servant, C, in an adjoining room, hears the crash, believes that the house is being attacked by rioters, becomes hysterical and suffers a nervous shock resulting in illness. A, hearing C's screams, goes to her assistance, stumbles over a chair and is hurt. What is the liability of A and B?

9. Due to defendant's negligence plaintiff is injured May 31, 1939, and dies February 19, 1940. In the trial the jury is instructed: "If you believe that the deceased had hemorrhages by reason of the accident and by reason of such hemorrhages she became weak and enfeebled and her vitality was impaired and if owing to that lowered vitality hemolytic streptococcus developed causing her death, you may find causal connection between accident and death." What do you say to this?

10. A sells to B as new a used revolver which he reasonably believes to have, and which he represents to have, a device preventing its discharge even when cocked, except when the trigger is pulled. In fact the device has become ineffective from previous misuse. In demonstrating its safety to a friend, C, B cocks the revolver and intentionally drops it. The impact with the ground causes it to be discharged and the bullet strikes C. What is the liability of A and B?

END.