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T. C. Williams School of Law, University of Richmond: Torts Exam, 29 May 1958

University of Richmond

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1. Ale, canoeing up a river, landed on an island owned by Bottle. Bottle found the empty canoe on the shore and cast it adrift. When Ale discovered this, he went to Bottle and demanded that Bottle lend him a row boat to enable him to get across to the mainland, a quarter mile away. Upon Bottle's refusal, Ale jumped in Bottle's row boat, but before he could cast off Bottle grabbed him and pulled him out of the boat. Ale landed a severe blow on Bottle's jaw, knocking him unconscious. Cork, Bottle's son, intervened at this point with a shotgun and began firing at Ale, who took flight and swam across to the mainland. What tort or torts, if any, have been committed? By whom? Against whom? Why? Why not?

2. A, while driving his truck with due care over the crest of a hilly road covered with ice, goes into a skid. As his truck slides and spins down the hill, he notices B's car, which had previously skidded while speeding, across the road with five people in it. In a split-second calculation, he correctly decides that his only chance of avoiding a crash into B's car is to swing the truck off the road into the fence of a farm adjoining the road. He manages to do this, and knocks down some 20 feet of fence, coming to rest just inside the fence on the farmland. C, the owner of the farm, working elsewhere on the farm knows nothing of this. C's house is on the farm, 200 yards from the road and plainly visible to A. C's prize Angus cattle are grazing on pasture land a quarter of a mile from the fence. They also are visible to A. After two hours' delay, with the help of a tow-truck, A gets back on the road and drives off. That evening C's cattle wander out through the gap in the broken fence and several are killed by traffic on the highway. C brings actions against A and B for trespass to his land, the broken fence, and the loss of the cattle. What result? Why?

3. The Electric Co. had authority to plant poles on property owned by Mrs. X, a widowed mother of several small children. It dug a deep hole three feet from the path leading from the house to the outside toilet and left it open and unguarded over night. After dark Mrs. X's small child, age 5, was hurrying along the path being followed by her mother when the child saw a large black object approaching her in the path. Frightened, the child stumbled and fell unharmed. The mother, not seeing the object, rushed to her child, picked her up in her arms, and inadvertently stepped into the hole near the path and broke her leg. It was later determined that the black object was a prize bull belonging to C in question 2 which had escaped under circumstances related in question 2 and had wandered on Mrs. X's land. C knew the bull to be vicious. Mrs. X's leg soon heals but the child has since been nervous and subject to vomiting spells. Mrs. X brings action against A and C for her personal injury and the trespass to her land. She also brings action against the Electric Co. for her personal injury. The child brings action against A and C for her injuries. What results? Why?

4. After A picked up his old truck at a service garage where he had left it for a thorough overhaul, the motor intermittently coughed and sputtered. A nevertheless continued driving until the motor died on a railroad crossing, which A had entered without stopping the old truck. The state Motor Vehicle Code required motor vehicles to stop, look, and listen before entering a railroad crossing. B, a passerby who was a trained mechanic, was helping A tinker with the truck engine when a train collided with the truck damaging the truck and injuring A and B. Though the train was being operated at a proper speed and the railroad track was straight and level for two miles in either direction from the crossing, the evidence is that the engineer and fireman were engaged in a quarrel and not looking ahead. A and B each bring actions against the garage and the railroad. What results? Why?
5. A is a nine year old boy who spends much time with his grandmother who lives nearby. Since both of A's parents are employed, A goes to his grandmother's apartment when he returns from school to await his parents return from work. Frequently he eats meals and spends the night with his grandmother. In fact, much of the parental supervision of A is left to the grandmother. A and his parents are visiting the grandmother one Sunday afternoon when Mr. and Mrs. X and their 15 months old child also come to pay a social call. As the seven people were seated and talking on a small screen-enclosed side porch, A was allowed to use a crude home-made bow and repeatedly shoot an arrow about the porch. Soon both of A's parents and Mr. X left the porch to walk about the yard. Before A's father left he said to A: "You might hurt someone." Thereupon the father took the bow and arrow away from A and hid it under some newspaper on the porch. A did not observe the hiding place but his grandmother did. After his parents had left, A began to look for his bow and arrow. His grandmother showed him where it was hidden. When Mrs. X expressed some apprehension the grandmother said, "He is big enough to take care of himself." Mrs. X took no further steps to protect herself or her child. After continuing to shoot the arrow for about five minutes the arrow hit the small child in her eye, necessitating its removal.

The child brings action against A's father and grandmother. As to the father's liability the court held "no proximate cause." As to the grandmother's liability the court held "no duty." What do you say to these rulings? Why?

6. A was injured by sticking a nail in his foot while in the employ of B. Upon the advice of his family physician, A went to Dr. C, a licensed chiropodist for treatment. B carried compensation insurance with X Insurance Co. The handling of A's claim was delegated to D, an adjuster in the employ of X Insurance Co. After some weeks of treatments during which A did not return to his job, D felt that A should consult an orthopedic surgeon and so advised A. A seemed to be satisfied with the services of the chiropodist and was reluctant to change. In attempting to convince A that the change should be made, D said: "Dr. C is not the type of doctor for this kind of work. He is a doctor for ingrowing toenails, flat feet and falling arches." Dr. C brings action against D alleging that he has been defamed and damaged. What result? Why?