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T. C. Williams School of Law, University of Richmond: Torts Exam, 29 May 1961

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1. Doe, a physician specializing in eye, ear, nose, and throat, gave Poe, a patient, an anaesthetic before lancing the right eardrum to remove a foreign substance. Doe made a mistake and had the instrument against the left eardrum when Poe, still under the influence of the anaesthetic, leaped from the chair and ran amuck, breaking medical instruments. In order to protect himself, and his equipment from further damage, and to prevent Poe from inflicting injury upon himself, Doe held Poe momentarily, and when he could hold him no longer pushed him through an open window four feet above the ground. Poe landed in Roe's flower bed breaking his arm and destroying some of Roe's flowers. What, if any, are the rights and liabilities of the parties? Give reasons.

2. P, a young woman, purchased at a drugstore a tin of aspirin and a tin of tablets designed to be dissolved in water to create a skin lotion for the treatment of eczema. As she left the drugstore to walk home, she was hailed by D, a friend, who was driving by. D offered her a lift to her home. D spoke thickly, and as P entered the car to sit beside him she caught a strong reek of alcoholic breath. The time was early evening and the distance to her home about a mile through a residential section of the city.

As D drove along P watched him carefully, insisting that he drive slowly, and warning him to be especially careful at every intersection. As they neared her home they came to an intersection with a traffic light. Just before the car entered the intersection the light turned red. P yelled to D to stop, but in his confused excitement he pressed the accelerator instead of the brake. The car darted into the intersection where it was struck by E, driving into the intersection from the cross-street at 60 miles an hour. The speed limit was 20 miles an hour.

D's car was overturned. P was badly bruised but managed to crawl out. Her head was aching badly, and she took two tablets of what she believed to be aspirin. In fact, in her dazed state, she had mistakenly swallowed two of the skin lotion pills which subsequently caused her severe intestinal disorders, lasting for six weeks.

P brings action against D claiming damages for the injuries suffered in the impact and for the illness caused by the pills. What result? Why?

3. A city ordinance made it a misdemeanor to park a vehicle in any roadway for more than 18 consecutive hours, and another ordinance similarly prohibited the use of fireworks without a license. Connie found the gasoline gauge registering empty when she entered her convertible on the evening of July 3, and wondered if gasoline had been siphoned out by a thief. After using the convertible and having the tank filled with gasoline, she again parked it on the street in front of her apartment building. Gasoline leaked slowly from the fuel line. Twenty-four hours later a small pool of gasoline had collected around one tire of Sid's sedan which was parked just behind Connie's convertible. The gasoline was ignited by a firecracker tossed by 10-year-old Dennis and the resulting fire severely damaged both cars. The firecracker had been given to Dennis by a friend with the knowledge of Dennis' father. Discuss the possible liabilities and defenses of Connie, Dennis and his father.

4. O is the operator of a bus that runs along a city street. One day, P, a passenger seated near the operator's seat, engaged C in conversation. As the bus approached P's destination, P rose to move to the proper exit near the center of the bus. As he did so, he made a final bantering remark to O, who turned his head to reply. As O turned back to watch the road ahead, he noticed that C, a child of 10, had dashed into the street to retrieve a ball and was just a few feet in front of the bus. Hastily, O applied the brakes with full power, bringing the bus to an abrupt stop. P was thrown to the floor of the bus, suffering injuries. The

front bumper of the bus grazed C's back, inflicting minor bruises. In actions by C against O, P against O, and P against C, what results? Why?

5. P, who was suffering from bursitis in her right shoulder, received a series of X-ray treatments from D, a doctor specializing in X-ray therapy. As a result of the treatments being negligently excessive, P's shoulder began to itch, turned pink, then red, and blisters formed. The blisters ruptured, leaving the raw flesh of the shoulder exposed. She complained of this condition to D who gave her a prescription for some salve. After using the salve for a period of two years without complete success, she consulted a dermatologist. After taking a history and making an examination the dermatologist prescribed a substance used in the treatment of radiodermatitis and correctly advised P to have her shoulder checked every six months as cancer might develop. As a result of this statement P developed severe cancerophobia, i.e., fear of cancer, for which she brings an action against D. May she recover? Why or why not?

6. P, a six-year-old boy, while playing in front of a parked automobile manufactured by D, inadvertently came in contact with the radiator ornament on the car and pierced his eyeball. The ornament was a pointed piece of metal some 10 inches long fastened to the front of the car over the radiator. It pointed forward and protruded several inches beyond the front of the vehicle. P brings an action against D to recover for the loss of his eye, alleging negligence in plan and design. What result? Why?

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