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T. C. Williams School of Law, University of Richmond: Torts Exam, 21 May 1964

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TORTS Examination

Mr. Muse

May 21, 1964

1. A and B, Army buddies, return from a two-year tour of military duty in Viet Nam and meet A's former fiancée, C, who has thrown him over. A begins by saying: "You two-timing slut." She slaps his face and then has hysterics. A shakes her to bring her out of what seems to be a fit, when D, her current passion, coming around the corner, sees the tableau and strikes at A intending to hit him in the face and knock him down. The blow misses A and lands on B opening an old wound from which he dies. C becomes ill. What, if any, are the liabilities of the parties? Give reasons.

Separation
Battery
Battery
Assault
Battery
Inf. of 3rd
Condt. of 3rd
Event Dkt

2. A is a nurse on private duty with B, a patient in C Hospital, a private institution. D, a patient in traction who shares the room with B, is known by all the hospital agents on that floor to be extremely violent at times. One day he becomes violent and threatens to throw traction weights and kill someone. A immediately rings for help which doesn't arrive for about ten minutes. In the meantime the violence increases. A, to protect herself and her patient, who is paralyzed and helpless, seeks to restrain D. After wrestling with D for about five minutes, A gets her right hand caught in the traction apparatus and suffers a severe laceration at the base of her index finger. May A recover from the hospital for her injury? Why or why not? (Cf. Hospital v. Hayes (1963) 204 Va. 703)

3. Immediately following the incident in Question 2 above, A applies a sterile towel to her lacerated finger to control the bleeding and proceeds to the office of Dr. Gonzales, a resident on duty in the hospital. She informs the doctor that she believes she has cut a tendon, and that if she has she wants the tendon taken care of before the wound is closed up. Dr. Gonzales is a native of the Philippines, and his English is imperfect. A repeats her statement to him several times, and the doctor answers, "It's O.K." Dr. Gonzales then closes up the wound with sutures of black thread. A is told to see Dr. Adams in three days.

When Dr. Adams sees A, he diagnoses severed tendons. A tendon graft operation is performed but is unsuccessful. Eventually a fusion of the joint is performed, which renders the finger completely rigid.

There are two medically acceptable ways of dealing with a severed tendon. One is to close the wound at the first treatment, and at a later date to reopen the hand and attempt a tendon graft. The other, referred to as "primary repair," involves an immediate attempt to join the tendon before the wound is closed.

A brings action against the hospital and both doctors. What, if any, is the liability of each? Why or why not? For the purpose of this question you may assume that the hospital is liable for the initial injury related in Question 2. You should also assume that since the doctors were performing professional services the doctrine of respondeat superior does not apply against the hospital.

4. A finds B with a broken leg and unconscious at the midway point of a railroad trestle 1,000 feet long, across which trains occasionally pass. He picks up B and carries him for a while passing on the way a wide spot in the trestle made for the protection of track walkers. Then, recognizing B as a notorious racketeer, A puts him down in the center of the track as he was before, but 300 feet closer to the end of the trestle. The crew of an approaching train would have seen B if they had been looking ahead and could have stopped before running over him. They were not looking and B was killed. What are the liabilities, if any, of A and the railroad? Why or why not?

5. A is about to invest \$1,000 in Series E Savings Bonds. In order to prevent this and to persuade A to use the money to buy mining stock from him at market price, B tells A that the Secretary of the Treasury is a crook, and that the mining stock is paying 10 percent dividends on the price (which is true) and that it will continue to do so (which B knows to be doubtful as the veins being mined are nearing exhaustion). Relying on these statements, A purchased the stock. Three days later a new and rich vein in the mine is found, but a week later an explosion causes the vein again to be lost and the mining company become bankrupt because of the damages it is required to pay its workmen injured in the explosion. What, if any, is B's liability?

END