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T. C. Williams School of Law, University of Richmond: Torts Exam, 18 May 1966

University of Richmond

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UNIVERSITY OF RICHMOND LAW SCHOOL

TORTS Examination

Mr. Muse

May 18, 1966

1. While canoeing up a river A's canoe capsized. A easily swam to a nearby island owned by B. A went to B and asked B to lend him a rowboat to get across to the mainland, a half mile away. Upon B's refusal, A jumped into B's rowboat, but before he could cast off B grabbed him and pulled him out of the boat. A landed a severe blow on B's jaw, knocking him unconscious. C, B's son, intervened at this point with a shotgun and began firing at A 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. Route 682 is a blacktop secondary highway, 16 feet wide, and no center line. It runs north and south in front of D's house which is on the east side of the highway. D's driveway intersects the highway at the crest of a hill. One morning D intended to drive his family on a shopping trip to town 15 miles north but could not start the motor of his car which was parked in his driveway. The family pushed the car to the highway. At this point D and his wife and daughter got in the car and D's son, 19 years old, pushed the car out on the highway. D turned the car to the right and coasted down hill attempting to start the motor. The car did not start and came to rest in the middle of the road 130 feet from the crest of the hill. P, who lives on Route 682 south of D, left home to travel to the same town. As she drove up the hill south of the entrance into D's driveway she could not see D's car. She saw D's son standing at the edge of the highway at the top of the hill and he waved to her as he had done on many previous mornings, but he did not give any signal of warning. P saw D's car for the first time as she reached the top of the hill. She immediately put on brakes and swerved to the left in an attempt to avoid a collision. Her car traveled 120 feet before hitting the bank on the left side of the highway, turning over, and colliding with D's car. This resulted in damage to P's car and personal injury to her. May P recover from anyone? Why? Why not? Cf. Finch v. McRae, 206 Va. 917 (1966).

3. At a busy intersection two motorists, A and B, both driving negligently, collided. A was thrown senseless to the street. B was badly shaken up, but not otherwise hurt. B's guest, C, was also thrown out and rendered helpless by a broken leg. D, driving a bus, could have seen the collision in time to stop, but his attention was momentarily diverted by some incident on the sidewalk. When he did observe the effect of the collision it was too late to avoid running over the men. In this mishap A received a broken leg, C was killed, and B, who was endeavoring to drag C to the sidewalk, also received injuries. Discuss the tort liabilities of the several parties.

4. P and his wife were camping in their house trailer on the right of way of a public highway at a point about 20 feet from the traveled portion thereof. P was lying on a cot under an awning; his wife was lying down inside the trailer. D drove his delivery truck by on the highway. Contrary to a criminal statute, D's oil tanker was loaded with 6 ten gallon cans of oil on the side of the truck and held in place by a side board. A fastener holding the side board worked loose causing one of the cans of oil to fall to the road. As it struck, the top of the can was blasted off by an explosion and hurled through the air, striking P on the head and seriously injuring him. P's wife heard the noise and commotion, saw something flying through the air, and heard her husband cry out that he had been struck. Concluding that he had been attacked, she jumped up, grabbed a pistol, and ran to the trailer door where she saw her husband stunned and bloody. Due to the shock, fright, and excitement, she vomited and began to have headaches. A few days later she suffered a miscarriage. What, if any, is the tort liability of D to P and his wife? Why? Why not?

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May 18, 1966

A 5. P, an adult not living with her parents, received a Christmas gift from her mother of a nightgown made of synthetic fabric. Synthetics, Inc. made the fabric. Design, Inc. made the gown, and sold it to M & R Department Store, from which P's mother purchased it. Soon after receiving the gift P was reading and smoking in bed, after taking a sedative, when the gown caught fire and burned. She was severely injured. The lighted cigarette was not in direct contact with the gown. The gown burst into flames when a tiny spark fell onto it. Discuss P's rights, if any, against Snythetics, Design, and M & R.

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