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Torts: Final Examination (May 21, 1965)

William & Mary Law School

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1. P was arrested for stealing a car and transporting it across a state line. This is a federal offense. He was confined in jail pending action of the federal grand jury. That body refused to indict P. It was D's duty to notify, J, the jailor, of the grand jury's decision. D negligently forgot to tell J until after the expiration of two more weeks at which time J released P. After P ascertained the facts he sued the United States, J, and P for false imprisonment. What judgment and why?

2. N employed some 200 persons in his manufacturing plant. He noticed that one of the buildings needed painting, so he ordered some lumber from D to construct some scaffolding. D knew that the lumber was to be used for that purpose. One of the pieces of lumber sent by D was knotty and cross grained and hence entirely unsuitable for such a purpose. Nevertheless, C, who was N's carpenter, used this piece as one of the main supports. P, a painter in N's employment, was injured when the scaffolding collapsed as a result of the defects in the piece of lumber described above. P sued N, D, and C in court of law. The state in which all this occurred had the usual type of workmen's compensation statute. All defendants demurred to a complaint setting forth the facts as above stated. What ruling on the demurrers and why?

3. By virtue of a franchise given by the City of Williamsburg to Colonial Williamsburg, Inc. the latter operates buses over prescribed routes at regular intervals. No charge is made, and anyone is permitted to ride in the buses. There are numerous admonitions made to tourists to leave their cars where they are staying and ride the free buses. A driver of one of these buses negligently collided with a car driven by X who was free from any negligence. As a result of this collision X, A, B, C, and D were injured. A was a tourist; B was an employee of Colonial Williamsburg on his way to work, C was an inhabitant of the City of Williamsburg on her way to visit a friend, and D was the bus driver. In determining the rights of X, A, B, and C, and D what questions of law would be involved? State these questions in numbered paragraphs. Do not attempt to answer the questions.

4. X of Norfolk, Virginia, ordered a car load of wheat from Y of Omaha, Nebraska. The wheat was shipped to Chicago by the A Carrier in a car owned by it. The A Carrier turned the car over to the N Carrier for transportation to Norfolk. The N Carrier turned it over to Belt Line in Norfolk, and Belt Line switched the car onto X's siding in Norfolk. While P, an employee of X, was unloading the car in a proper manner the door of the car fell on him and he was injured. Neither the N Carrier nor Belt Line inspected the car, and the defect in the door was not an obvious one, but a reasonably careful inspection would have resulted in its discovery. What, if any, are P's rights against the carriers A, N, and Belt Line? Give reasons.

5. Mrs. A is the author of a syndicated column which is printed in newspapers in every state. She "answers your problems". In her column of April 22, 1965 a letter from, "HEARTACHE IN NEW HAVEN" was printed a portion of which is as follows, "Our eldest son(21), a junior at Yale, handsome, bright and promising, fell in love with a 19 year old girl who attends a nearby school. They wanted to marry during spring vacation. We told our son we felt an obligation to educate him, but not to support him and a wife. We agreed to continue his usual allowance until he finished law school, but nothing more. The parents of the girl decided our son was too good a catch to lose. They offered a lavish wedding, a beautiful bungalow(completely furnished) and agreed to pay all their living expenses indefinitely. Our son now considers us 'stingy, unco-operative, and downright mean'. The girl's parents are 'generous, loyal and understanding'. We rarely see our son and his wife. The girl's parents see them a great deal."

Mrs. A commented as follows, "Unfortunately your son and his girl were for sale to the highest bidder and her parents put in the high bid. I hope your son wakes up, and recognizes the situation for what it is. The whole thing smells like last week's fish to me."

When the above was called to the son's attention by an anonymous letter(clipping enclosed) he was infuriated, and consulted a lawyer with reference to his possible

rights. If the matter were referred to you, what questions of law and fact would you investigate? List these questions in numbered paragraphs. DO NOT ATTEMPT TO ANSWER THE QUESTIONS.

6. At the close of a college football game (home team lost) S, a student, violently hurled a Coca-Cola bottle (king size) into the departing crowd. At the time S was in the upper portion of the stadium. After throwing the bottle S put on an angelic expression and appeared to be an ordinary spectator on his way out. The bottle struck Mrs. X injuring her slightly. A, an alumnus, saw S throw the bottle, and within a matter of seconds, grabbed him by his shirt collar, and told him he was under arrest. S turned on A, and said "Who the ----- do you think you are?" and jerked himself from A's grasp. A swore out a criminal warrant against S for assault and battery on Mrs. X. At the trial S denied that he threw any bottle. It was S's word against A's word. S was acquitted. S then sued A for false arrest and malicious prosecution. What judgment and why?

7. X was driving his car. His steering mechanism was not functioning properly so he stopped at D's garage to have it repaired. D told him he also needed a new muffler. X told D to put in a new muffler, and D told X to come back the next morning. D's employee, E, put in a new muffler but forgot to inspect the steering mechanism. E told D that the car was ready. D supposed that E had attended to everything, and told X the next morning that his car was ready and that the bill was \$45--\$15 for the muffler and \$30 for fixing the steering mechanism. X paid the bill and drove off. Ten minutes later X ran into P because of the defective steering apparatus and injured him severely. What are P's rights, if any, against X and D?

8. X negligently injured P. As a result of this injury it was necessary for P to undergo surgery. Dr. D inadvertently left a surgical sponge inside P which necessitated a second operation a year later, and caused P considerable suffering. After the first operation, but before P knew anything about the sponge, P released X outright. Later P sued D for damages caused by his failure to remove the sponge. P was unable to get any doctor to testify against D. What, if any, are P's rights against Dr. D? Give reasons.

9. D lent his car to his 16 year old nephew, N, who had a driver's license, so that N could take a group of high school students to a baseball game. While N was driving the car with the approval of all at an excessive rate of speed he lost control and ran into P's car. P, and S, one of the students, were injured. D and N were insured against liability to others arising out of the operation of the car by anyone driving it with D's consent. What rights, if any, have P and S? Give reasons.

10. B and S were the minor unemancipated children of W, a widow. While B was driving S to school pursuant to W's orders in W's car he negligently failed to make a turn in the road and ran into a tree. S was killed. What, if any, are the rights of W and B, if any, under the usual type of death by wrongful act statute? Explain fully.