

HESS SEGALL POPKIN GUTERMAN PELZ & STEINER  
230 PARK AVENUE  
NEW YORK, N. Y. 10017

MORTIMER H. HESS (1911-1968)  
ARTHUR A. SEGALL  
LIONEL S. POPKIN  
ABRAHAM S. GUTERMAN  
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ROBERT WEHLE  
ROBERT A. SEIDENBERG  
DONALD L. B. BARAF  
LOWELL A. MARGOLIN

HAROLD RIEGELMAN  
COUNSEL

TEL: (212) 689-2400  
CABLE 'TIMMY'  
TELEX 12-7400

April 1, 1976

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Rabbi Norman Lamm  
The Jewish Center  
131 West 86th Street  
New York, N.Y. 10024

Dear Rabbi Lamm:

I thank you for sending me the copy of your article on the Halachic parallels in the Talmud with reference to the Patty Hearst case. I was particularly glad to receive the footnotes which did not appear in the article, which touched upon various points that add to the completeness of your analysis. In that connection the difference between a single event and a series of events presents the heart of the controversy in that case. In the Anglo-American Common Law there are various situations in which the problem is dealt with under the heading of Res Gestae, that is, whether a given series of events are sufficiently related to be regarded as a single event. For example, in the Law of Evidence hearsay is excluded on the ground that the person who made the statement is not present in court for cross-examination. However, there are a series of exceptions to the hearsay rule where evidence is accepted even if it is hearsay, because of special circumstances. Thus, for example, a statement made by a person who knows that he is dying may be testified to by a third person who heard the statement on the basis that a person facing death would be presumed to be telling the truth. Similarly, when a person, for example, cries out while watching a railroad train about to run over a person and the statement is made as part of the emotion generated

by the event, then the test of admissibility of such evidence is whether it was part of the Res Gestae. Thus, if the statement were made while the accident was happening it is acceptable, but if it is made after the entire event is over it is not admissible in evidence, because it is not part of the Res Gestae. \*

It is possible for the Res Gestae to be a series of events but normally such events must be sufficiently close in time for the purposes of this rule. In the final analysis the true test would be, as you point out, whether the original coercion continued to be operative at the time of the commission of the crime. This reduces itself to a factual question where all the other elements of possibility of escape, desire to escape, etc. enter upon the final determination.

I congratulate you upon your excellent analysis.

With best personal regards.

Cordially yours,

  
Abraham S. Guterman

\* Similarly with reference to aspects of the concept  
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