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Examination questions: Commercial Law, Thursday Morning, November 19, 1931

Michigan Board of Accountancy

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EXAMINATION QUESTIONS

Commercial Law

THURSDAY MORNING, NOVEMBER 19, 1931

NEGOTIABLE INSTRUMENTS

Question 1:

John Williams, a contractor, does two jobs for Henry Black, under two separate contracts. The money owing under each contract will fall due August 1, 1931. John Williams on July 15, 1931 needs some money to pay Tom Carlson. He thereupon draws on Henry Black a draft or bill of exchange which is negotiable in form unless the ending "and charge to my account on the No. 18 Main Street job" makes it non-negotiable. Tom Carlson in his dealings with John Williams has made fraudulent statements. Williams discovers the fraud and notifies Black not to honor the draft when presented for payment. Carlson, prior to maturity, indorses the bill of exchange to Peter Dawson. Dawson presents it to Black at maturity for payment which is refused on account of the stop-payment order. Dawson seeks to hold Williams.

What must the court decide, and why, in respect to

(1) The negotiability of the note. Is it negotiable?

(2) The conditions under which Dawson must have acquired it. Will this be material if the note is not negotiable? Why?

Question 2:

Which of the following statements are correct and which incorrect:

(1) A note is not negotiable if it contains no express provision as to date of maturity.

(2) A note is not negotiable if it is undated.

(3) A change of the date by a holder is not a material change.

(4) A note payable when a person becomes thirty years of age may be negotiable if the person becomes thirty years of age.

(5) A note payable in installments is not negotiable.

(6) A note which provides for payment of attorney's fee if not paid at maturity is not negotiable unless it names the amount of the fee.

PARTNERSHIPS

Question 1:

Name as many differences as you can between partnerships and corporations.

Question 2:

A is willing to invest with B and C, partners, $10,000 it being agreed that in all events A should be indemnified against loss and have 6 per cent on his money. Is it possible under the law that A might not be a partner under such an arrangement? Is it possible that he might be? Explain fully.

CORPORATIONS

Question 1:

State the meaning of (a) authorized stock; (b) issued stock; (c) unissued stock; (d) treasury stock.

Question 2:

Henry Henderson owns 20 shares of stock in the Doolittle Company. He sells the stock to Elmer Wilson, and delivers to Wilson the certificate properly indorsed for transfer, but Wilson does not see that the transfer is recorded on the Company's books. Henderson dies and Nelson is appointed his executor. He attends a meeting of the Company, produces a certified copy of the letters testamentary and is allowed to vote. The company issues a stock dividend and delivers it to Nelson; and also pays cash dividends to Nelson. Nelson is ignorant of the sale to Wilson, and supposing the stock to have been lost applies to the corporation for another certificate, which the company issues.

(1) Did the company run any risk in allowing Nelson to vote without producing the certificate?

(2) Did the company run any risk in paying the stock dividend and the cash dividend to Nelson without his production of the certificate?

(3) Did the company run any risk in issuing Nelson a new certificate without the production of the old?

Question 3:

J. P. owned certificates of stock in the P. D. E. Co. Two men falsely claiming to be agents of the company called upon J. P. and stated that they were sent by the company to pick up all the outstanding certificates of stock, for the purpose of making some corrections therein. J. P. thereupon indorsed in blank the usual assignment and power of attorney form on the back of the certificate and delivered same to the supposed agents. The stock was sold to M. K. an innocent purchaser at the market price. M. K. presented the certificate to the company for transfer, but the company having been notified of the fraud refuses to transfer the stock. Is M. K. entitled to the stock? (see 206 Cal. 334, 73 A. L. R. 1398.)

CONTRACTS

Question 1:

"April 19, 1922. I promise to pay my wife on conditionary, the sum of $5,000 providing she stays with me while I live and takes care of things as she has always done; this note not due for 6 months after my death and to bear no interest until due.

D. A. FRAME."

Mrs. Frame, after her husband's death sues on above note, and shows that she performed the services required in the note, namely, household duties, keeping simple farm accounts, selling butter, etc.

Has Mrs. Frame a good case? (Frame v. Frame, 73 A. L. R. (Texas) 1512.)

Question 2:

John Akers has two sons, who become of age. Peter Akers, one of the sons, leaves home and goes into business, becoming well-to-do. He writes home very seldom, takes no interest in his father's affairs and never helps him in any way. Walter, the other son, feels responsibility, stays at home, and works for five years after he becomes of age on his father's farm. The father dies leaving no will, his entire estate consisting in the farm, worth about $16,000. Walter keenly feels the injustice of his brother getting half of the estate, and he puts in a claim against the estate for the reasonable value of his services. Will it be allowed? Why?

BANKRUPTCY

Question 1:

M. Ployee works for M. Ployer, at a salary of $200 per month. The contract of employment is for an indefinite term, i. e. M. Ployer may discharge M. Ployee at any time without liability. M. Ployee borrows $1,000 from one Carruthers, assigning his right to salary as security therefor. Thereafter, and while the assignment is in force and effect, M. Ployee files a voluntary petition in bankruptcy. At the time the petition is filed M. Ployer owes $200 unpaid salary. The trustee in bankruptcy claims the right to collect this salary. Is this correct?

Question 2:

A general creditor of M. Ployee has a claim against him for $1,000 arising out of contract dealings he has had with M. Ployee. The creditor gets judgment for this amount three months prior to the date of the filing of the bankruptcy petition. Under the law this judgment gives the creditor a general lien on all of the debtor's assets. Does the trustee take subject to this judgment lien? Why?

Question 3:

M. Ployee after the petition in bankruptcy is filed continues to work for M. Ployer at the same salary as before. Ignoring the effect, if any, of the assignment to Carruthers, does the trustee have any claim to the salary accruing and maturing after the petition in bankruptcy is filed and during administration? Why?

FEDERAL INCOME TAXES

Question 1:

(a) What credits against net income are allowed individuals for normal tax purposes?

(b) What credits against the tax payable are allowed individuals?