

1954

## Contracts: Final Examination (January 1954)

William & Mary Law School

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Contracts--Final Examination--January 1954

1. X owned Blackacre. He listed it for sale with B, a real estate agent, for the sum of \$20,000. B found P who was ready, willing, and able to pay X \$20,000 for the land.

(a) If X refuses to sell to P, can P successfully maintain a suit in equity for specific performance? Give reasons.

(b) If X is willing to convey, but X's wife refuses to join in the conveyance and the land is located in a state in which a wife's dower right (one-third for life after husband's death) is recognized, and if P refuses to accept a deed from X alone, is X under a duty to pay B his commission? Give reasons.

2. X owned Blackacre. He listed it for sale with B, a real estate agent, for the sum of \$20,000. B found P who was interested but P thought \$20,000 was too much. P offered X \$16,000 cash. X accepted this amount from P. Does X owe B a commission on \$20,000 or a commission on \$16,000, or no commission at all? Give reasons.

3. D County caused the following notice to be inserted in the Wall Street Journal:

"For the convenience of bondholders who may wish to surrender their bonds (describing them) before maturity the Board of County Commissioners of D County, has arranged to provide funds for the purchase of the above described bonds at par and interest to Dec. 1, 1941. Holders may send their bonds to the Manufacturers Trust Co. for surrender pursuant to such terms.

"Done, Ordered and Adopted at a meeting of County Commissioners of D County on the 24th day of November 1941.

(Signed) C. F. Walker, Chairman".

As a result of Pearl Harbor there were quite violent fluctuations in the security market and D County refused to purchase some \$450,000 worth of its bonds that were brought to the Trust Co. on Dec. 11, 1941. Suit followed. What judgment and why? Discuss all points involved.

4. D who was tenant of a store building on a monthly basis at a rental of \$175 per month wired, P, his landlord, "I have a chance to sell to a good man. He would like a two year lease. I am sick and have to sell my store. Wire immediately."

On the next day, Jan. 15, 1945, P wired, "Will give you two year lease at \$175 monthly. I am also ill and contemplate sale of building as soon as possible. If you want to lease, please advise".

Late in the afternoon of Jan. 16 D deposited in the Post Office an airmail letter to P in answer to his telegram of Jan. 15th stating therein, "I accept the lease proposition. I am assigning my lease rights to X and he desires to have a written lease from you, and consequently I have had a lease drawn up between you and X for a term of two years. He has signed the lease in duplicate and when you sign same, it will be complete. You can keep one copy and mail the other to X who is buying my stock of merchandise. I am sure X will keep all rentals paid promptly and will take good care of the premises. If the lease is not satisfactory you can draw a new one, but I think the lease is okay. (Signed) D".

On Jan. 18 prior to receipt of the above letter P telegraphed D, "Disregard wire of Jan. 15. Believe building has been sold". This contemplated sale fell through.

Later P found Y who was willing to pay \$250 a month for the building for a ten year lease. Accordingly P gave D proper notice to terminate a month to month tenancy. D refused to get out on the ground that he had a lease for two years. P brought ejectment. What judgment and why?



5. D was under contract with the State of Delaware to build a highway. He purchased \$25,000 worth of concrete from P and was billed for that amount. D sent back a check for 95 per cent of that amount calling P's attention to the fact that he had always allowed him a 5 per cent discount in the past. The contract provided, "Terms are thirty days net cash or 5% discount for cash paid on or before the 15th day of each month for all invoices for the preceding month, providing all previous invoices are paid". A letter accompanying the check stated that it was in full payment of the \$25,000 bill. P cashed the check and then demanded \$1,250. It is admitted (1) that D had sent in the check after the 15th of the month, and (2) that on two prior occasions involving different contracts but containing the same terms that the discounts had been granted even when payment was made after the fifteenth. Is P entitled to judgment for the \$1,250? Give reasons.

6. T was tenant of a portion of a building. L, the landlord, wished to lease the entire building to one tenant, and T wished to remain, but he could not himself use the whole building. So on August 1, 1944 L leased the whole building to T for five years with the understanding that T could sublet the part he could not use. T later found he could not get sub-tenants unless he could give them at least eight year leases. T told L of this situation whereupon it was agreed in a writing signed by both parties that in consideration of L and T being landlord and tenant for five years from August 1, 1944 L gave T an option to renew the lease at its expiration on August 1, 1949. T, realizing that his lease would be up by August 1, 1954 at the latest, purchased a tract of land in the neighborhood with the expectation of building his own garage thereon. In June of 1949 the Woolworth Store approached L with a view to renting the premises for ten years at a substantial increase in rent whereupon L notified T that his option to renew was cancelled. What are T's rights, if any? Give reasons.

7. D owned timberland in Virginia. He executed the following option agreement with P:

"Know all men by these presents that I, D, in consideration of one dollar hereby agree to sell to P all the timber on my land (describing it) for the sum of \$20,000 provided he pays that sum to me on or before August 22, 1953.

"This 17th day of June, 1953 (Signed) D (Seal)".

Prices for lumber advanced. When P tendered D \$20,000 on August 15, 1953 D declined to sell. P sued D for breach of contract. What judgment and why?

8. P was under contract with R County to build a bridge across a certain stream. After P had expended some \$1900 and completed about one tenth of the work R County decided to re-locate the highway that was to connect with the bridge in question and notified P to stop work on the bridge. This P refused to do on the ground that R County had no right to rescind the contract. After completing the bridge, P sued R County for \$20,000 which was the contract price. What are the rights of the parties? Give reasons.

9 and 10. Below are ten elementary questions. Please answer each in a line or two in separate paragraphs lettered to correspond with these questions:

(a) What are the common law contract actions and what is the general issue in each?

(b) If a defendant wishes to rely on the happening of an express condition subsequent as a defense should he ordinarily demur, confess and avoid, or traverse? Give reasons.



(c) Suit was brought on a repudiated contract for the sale of sugar a month before the time for performance, but the case was not tried until after that time. Should the damages allowed be based on the market price of sugar at the time of repudiation, or at the time when the contract should have been performed, or at the time of the trial? Give reasons.

(d) From what date does the statute of limitations run in cases of anticipatory repudiation? Give reasons.

(e) X promised to pay Y \$50,000 for materials furnished X by Y ninety days from date of delivery of the last items. Ten days after the delivery thereof X unequivocally stated that he would never pay Y a cent. Has Y a cause of action? Give reason.

(f) Is consideration needed for a valid waiver of one's rights? Explain.

(g) Land was conveyed to X and his heirs forever, but if X should die without any living descendants, then the land to go to X's brother, Y, and his heirs forever. Is X's death without living descendants a condition precedent or a condition subsequent? Explain.

(h) Is a promise made by an indorser of a note who has been discharged by failure of the holder to present it to the maker for payment on its due date, to pay the amount thereof to the holder on the first day of the next month a legally enforceable one? Why?

(i) X and Y were in an accident for which both were to blame. X was injured to the extent of \$1,000 and Y to the extent of only \$100. Y offered to pay X \$500 if X would settle out of court, and X accepted the offer. Later Y changed his mind. X sued Y for breach of contract. What judgment and why?

(j) List Hohfeld's eight jural relationships correlatively.