Contracts I (Section A): Final Examination (January 1971)

William & Mary Law School
Final Examination
Contracts I, Section A

Answer all questions. Apportion your time. Times indicated are suggestions only. Be sure your exam number is on all blue books used.

I. Weight 25 - Time 45 minutes.

On July 1, Arnold, an avid golfer, won first prize at the country club raffle - a new set of Lee Beard golf clubs (8 irons, 4 woods with covers, but no putter or wedge) and a new "Veeraver" leather golf bag with umbrella. Impressed with this good fortune, Arnold decided to sell his old clubs and bag. On July 2, he placed the following ad in the local newspaper: "For sale, golf equipment, like new. Call 848-4884, after 6 P.M."

The ad was seen by Charlie, a beginning golfer who, upon telephoning Arnold, was invited over to see the goods. Arnold had the following items displayed for examination: (1) a full set (eight) of McGregor irons and woods (four with covers), 1963 model; (2) a "Bullseye" model putter and "Wilson" sand wedge; (3) a "Argo" brand leather golf bag, 1 year old; (4) a hand pull cart, almost new; (5) one pair of "Footjoy" golf shoes, size 10.

After discussion and inspection, Charlie stated that he was "definitely interested" if the price was right. Arnold replied that "you can have the works for $300." Charlie asked for and was granted a few hours to think it over.

Charlie called on Arnold that evening, and after some dickering got the price down to $275. Charlie then stated that he accepted the offer, provided that he was able to sell some unlisted stock over the counter. Arnold agreed to this, provided payment could be made by July 10. This was satisfactory to Charlie, and the two men had a beer or two. Later in the evening Arnold produced the following writing, which he described as a "memo of our deal": "July 2: Arnold hereby agrees to sell and Charlie agrees to buy for $300 cash one set of golf clubs, McGregor M. T.s., and an Argo golf bag with umbrella /s/ Arnold." Charlie glanced hastily at the memo and signed under Arnold's name.

The next day Arnold withdrew the ad from the paper. He also played golf, taking with him to and leaving at the club the putter, wedge, golf cart, and shoes. Charlie gave his broker a sell order, stating that he had just purchased everything he needed to take up golf for $275. After lunch Charlie again consulted the written memo and saw that the stated price was $300. Also, nothing was said about selling the stock. Upon calling Arnold, Charlie was told that the deal did not include the putter, wedge, golf cart, and shoes and was directed to "read the contract." Charlie told Arnold that in light of the fact the "deal was off." Later in the day Charlie's broker called to say that he was unable to find a buyer for the stock over the counter and things looked bad for the next few days.

On July 5, Arnold learns that Charlie has won $300 in a Fourth of July Essay Contest. Arnold takes the set of golf clubs and the bag to Charlie's home, tenders them to Charlie and demands $300. Charlie rejects the tender. Arnold wants to bring suit against Charlie and consults you for advice.

II. Weight 15 - Time 27 minutes

Hort Wilkins sought a franchise for a Schmidt Irish Stew Diner. Hort and his wife owned a candy shop until they sold the building in 1969. Hort contacted the authorized Schmidt representative and they entered negotiations in 1967. The agent told Hort that $18,000 would be sufficient to finance such a venture. On the advice of the agent Hort purchased a small local restaurant in February 1965 so that he could gain experience in the business. Having been told by the agent that Schmidt would find a larger operation for him elsewhere and being advised to sell the small place, Hort sold it after three months of doing business and realized a net profit of $500 on the purchase and
sale. In further preparing for the franchise Hort sold the candy shop and building at a loss, moved his family to a rented home in another town near the proposed site, and purchased an option on land for the proposed diner, all in reliance on Schmidt’s assurances to grant the franchise. A proposed financing agreement was drawn up, calling for $24,000 cash capital. Hort neither objected to nor committed himself to this proposal, apparently intending to negotiate this aspect of the transaction further. Hort’s father-in-law agreed to loan Hort $13,000 provided he would be a partner in the new venture. Schmidt later said $24,000 cash would make the loan an absolute gift. At the subsequent negotiating session Schmidt insisted that the father-in-law make the loan an absolute gift. At the same session Schmidt presented a new proposed financing agreement which required an initial investment of $34,000. Hort refused to agree with these new proposals and negotiations were terminated.

Hort brought suit to recover the damages he had sustained and the trial court awarded the plaintiff damages for the loss on the sale of the candy shop, his rental and moving expenses, and the cost of the land option. The court permitted recovery of the difference between the sales price and the market value of the small restaurant, but refused to award future profits. Schmidt has taken an appeal to the highest court in the state. The case is one of first impression.

You are the Chief Justice sitting on the case and the arguments for and against each, whether or not depository of case.

III. Weight 15 - Time 27 minutes

On Wednesday Tom Trust and Sam Sly discussed an opening Sly had in his law firm for a fledgling attorney. Trust was interested in the position, and was told by Sly that the pay was $1000 a month. Trust said the pay was all right, but that he would have to think the matter over. Sly replied, "That's up to you. But to help you make up your mind, I'll raise the pay to $1200, and make you this proposition: Come around Monday at 9 and the job's yours for a year. That's providing you can last out a year. You've got a kind of funeral look, but I suppose you're healthy enough to last a year." Trust replied, "Oh, I'm healthy all right. I accept your proposition. You can expect to see me Monday morning."

Trust reported for duty at Sly's office at 9 on Monday morning. Sly appeared at 9:30, and said, "Glad to see you here so promptly. Now, there's no mistake about our contract is there?" Trust replied, "I don't think so. I understood one year at $1200 a month, unless I cash in sooner." Sly answered, "That's right. What's that you're chewing?" Trust said, "Tobacco." Sly replied, "Get out. You're fired. Nobody can work here that chews tobacco. I hire only Philadelphia lawyers."

Trust wants to sue Sly for breach of contract and consults you in that regard. As attorney for Trust, what constructions of these facts would you consider in contemplating suit against Sly? Discuss all issues whether or not depository of the case.

IV. Weight 15 - Time 27 minutes

Arthur Goodfellow owned forty shares of All But Broke Corporation's stock and was a vice-president of the corporation. On December 31 he entered into a signed written agreement to serve the corporation as plant superintendent for one year commencing January 1, at an annual salary of $9,000, payable in weekly installments, plus a bonus of $3500, payable in monthly installments.

On May 2 the corporation was in financial difficulties and, according to its officers, would have had to close its operations if obliged to continue on to meet the full burden of its commitments to its key personnel and other employees. As a result of a conference on that day
between certain officers of the corporation and its twenty-five key personnel, including Goodfellow, they agreed to accept a reduction in compensation. Thereafter, Goodfellow and the other key personnel received reduced salaries.

On May 15 Walter Notsco Smart, a twenty-four year employee of the corporation, went into the office of Sam Hardnose, the director of personnel and payroll. Smart was carrying his contract of employment and he and Hardnose discussed the firm's financial difficulties and the recent salary reductions. Smart was quite concerned that "his" firm would "go under" and he wanted to help if he could. At the end of the discussion he told Hardnose that he could get by on 10% less than his contract rate and would expect a reduced check in his next pay envelope. Hardnose did not disappoint him.

On October 28 the corporation was adjudicated bankrupt, and the contracts of Goodfellow and Smart were properly disaffirmed by the trustee. Subsequently, Goodfellow and Smart individually seek to recover the difference between the salaries specified in their written contracts, and the salaries they actually received. Having heard that you are an expert in the law of contracts they have come to you for your advice and judgment on the merits of their claims.

V. Weight 15 - Time 27 minutes

On July 6 Andrew Impatient wrote to Bill Pickle, offering to sell him 100 widgets at $10 per widget, and giving Bill four days from the date of the letter within which to accept the offer. Bill received the letter on July 7, and at 2 p.m. on the same day sent Andrew a letter, offering to take 50 widgets at the stated price. Three hours after posting the letter to Andrew, Bill changed his mind, and at 6 p.m. on July 7 telegraphed Andrew that he would take all 100 widgets at the stated price and to disregard Bill's letter mailed the same day. This telegram was received by Andrew at 8 a.m. on July 8. Bill's letter was not received by Andrew until 5 p.m. on July 9. In the meantime, at 11 a.m. on July 7, Andrew sold the widgets for a higher price to Charlie Care and one hour later posted a letter to Bill notifying him of this fact. This letter was received by Bill at 4 p.m. on July 9. Bill now claims that he has a contract with Andrew for the purchase of the widgets. Discuss Bill's claim and all issues raised whether or not depository of the case.

VI. Weight 15 - Time 27 minutes

A. Allen Dane, the owner of Blackacre, gives Blake Collie the exclusive authority to sell Blackacre for 30 days from date, and promises to pay him a commission of 5 percent of the selling price. Collie, with the knowledge and acquiescence of Dane, proceeds to advertise the property. After making reasonable efforts for five days to sell Blackacre, Collie abandoned all attempts to sell the property. Does Dane have a cause of action against Collie?

B. Ted True and William Blue were very good friends; their families were constantly together at all community and social functions. They decided to go into business together. Because they did not want their business affairs to impinge on their mutual social life and friendship, they actually agreed that the written agreement which they had signed at the request of their attorneys would not give rise to any legal obligations. At the end of their business venture Ted had lost $1000 and Bill had broke even. Under the written agreement Bill would have owed Ted $500. Three months later Ted needs some money and Bill promises to pay him the $500. Bill does not pay and after two months Ted, now desperate for money, sues Bill for the $500. Does Ted have a cause of action against Bill?

C. Tom Careless owns a building which fronts on Main Street in downtown Centerville, North Dakota. A state statute requires all landowners to remove snow and ice from their sidewalks within 48 hours of the end of ice or snow storms. Three days after a qualifying storm, Mayor Lindsay called Tom, reminded him of the statute, and told him to remove the ice and snow from the sidewalk in front of Tom's building.
because it was a dangerous condition for Christmas shoppers. The Mayor told Tom that if Tom did not remove the ice and snow a city crew would and the city would then collect the cost of the removal. At that point Tom hung up on the Mayor. Two days later Hank Handymen noticed the dangerous condition of Tom’s sidewalks and without the knowledge of Tom and the Mayor, Hank cleared Tom’s sidewalk of ice and snow. Hank knew of Tom’s duty under the statute and now seeks to recover the value of his services from Tom. Does Hank have a cause of action against Tom?