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Business Law II: Final Examination (June 1, 1965)

William & Mary Law School

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1) P, claiming to be a holder in due course on the below instrument, is suing D thereon:

Williamsburg, Va. 5/1/65

Thirty days from date pay to the order of No Do \$200 at office of
 Peninsula Bank & Trust Co. Interest at 6%.
 To _____

No Do (signature)

D wrote across the face of the instrument: "Accepted, May 1, 1965" (signed) D. The instrument was negotiated to P after acceptance by D. D refuses to pay, setting up a personal defense against No Do and insisting that P as assignee of No Do took the instrument subject to such defense. Who should win? Give reason(s).

2) G.M.A.C., as plaintiff, is suing D on a note given by D to the Lye and Krook Motor Co. for a 1960 Pontiac. Originally the car was floor planned by Lye & Krook with G.M.A.C. In September 1960 the auto dealer sold the car to X, paid off the balance due on the floor plan note, and X finances the car (i.e., signed a note) with G.M.A.C. In October 1960 X had a collision with the car, traded it with the dealer for another one, refinancing the old note. A few days later D bought the car, having been told by the dealer that it is a new demonstrator, the note and chattel mortgage which D signed so describing the car too. The dealer negotiated the note and mortgage to G.M.A.C. When D found out that the car was not new, but a repaired used one, he refused to make the monthly payments, defending on the grounds of fraud. G.M.A.C., claiming to be a holder in due course, maintains that such personal defenses are no good against it. What judgment? Why?

3) Yourwatchem, D herein, sold to Pushover six tractors on a conditional sales contract. Hotflame, P herein, shortly thereafter sold to Pushover on a conditional sales contract butane tanks and carburetors for the tractor to replace the original gas tanks and carburetors, P removing the original equipment. The exchange added no value to the tractors. Pushover defaulted on both contracts and D repossessed the tractors. P now sues D for the butane tanks and carburetors. Discuss the legal issues involved, including rules of accession. Who should win the case? (Both contracts were recorded so do not discuss the statutory filing problems).

4) D wrote to P a letter in which he stated that "I will be responsible for merchandise that X may buy from you, to the amount of \$500. Thereafter X made several purchases totaling \$1500, on which he paid \$1200. P now sues D for the \$300. Discuss the legal issue(s) involved. Judgment for whom?

5) a) A farmer learns that another party killed a number of rabbits which were running at large upon his farm. To whom do the rabbits belong?

b) P intentionally took corn that belonged to D and distilled it into whiskey. D had the whiskey seized by the sheriff and P now sues D in replevin. Who gets the whiskey?

c) O gave M a chattel mortgage on certain sheep as security for an indebtedness, but O later comingled the sheep with other sheep that he owned. Since O is in default, M seeks to foreclose, and O insists that M must identify the particular sheep that have been mortgaged. What decision?

d) The maid of a hotel found \$100 under a rug in a guest room she was cleaning, and turned it over to the manager. The hotel could not locate the owner of the money and the maid now claims it. Who gets it?

- 6) P delivered to D, a common carrier, 29 bales of cotton with the understanding that the cotton would be shipped when P delivers 71 more bales. D placed the 29 bales on its shipping platform. That night 23 bales were destroyed by fire without any negligence on the part of D. Is D liable?
- 7) P Insurance Co. insured the goods of a tenant of the defendant against loss from water leakage. A water loss occurred due to negligence by the landlord and the tenant sued and recovered from P. P now sues D. Should P prevail? (Discuss the insurance issues as well as landlord-tenant issues).
- 8) A bought a home from B and assumed the mortgage thereon, and for several years made the installment payments. Then A sold the house to C who took it subject to the mortgage. Eventually C defaulted on the payments. Discuss the rights of all the parties involved.
- 9) Testator bequeathed \$500 to A, his automobile to B, his house to C. There was a mortgage of \$2000 on the house. Testator died in an accident in which the automobile was completely wrecked. After paying off all the debts of the estate, except for the mortgage, the executor was left with \$2800, the proceeds of the auto insurance. The fair value of the wreck was \$300.00. B claims the whole \$2800.00. C claims he must get the house free and clear. A claims the \$500. What is the executor to do and why?
- 10) The debtor, within four months prior to filing a petition in bankruptcy, assigned certain accounts receivable to Brown to secure a present loan. The debtor, at the time of the assignment was in fact insolvent. Brown did not know or have reason to know of the insolvency. Is the lien of Brown good as against the trustee in bankruptcy?