Examination Questions: Commercial Law, Thursday Morning May 10, 1934

Michigan state Board of Accountancy
CONDITIONAL SALES

Question 1:
Define the following terms within the meaning of the Uniform Conditional Sales Act.
   a. Buyer
   b. Filing District
   c. Performance of the Condition
   d. Person

Question 2:
The B. Co. sold to R., under a conditional bill of sale, an auto truck, to be paid for in a series of notes, title remaining in the seller, until the notes were paid. The conditional bill of sale was filed in the proper office in the county in which the truck was kept, and on the same day the bill of sale was assigned to T. R. did not get immediate possession of the truck, and when delivery was tendered, he sent it back to B. Co., who sold it to H., who lived in another county, where there was no incumbrance recorded against the truck. T. claims the truck by virtue of the assignment of the bill of sale to him by the B. Co. Is he entitled to the truck?

SALES

Question 3:
When there is a breach of warranty by the seller, what remedies has the buyer at his election?

Question 4:
A. sold certain goods to B. and shipped them to B. with bill of lading in B’s name. This bill he mailed to B. Subsequently, A. discovered that B. was insolvent, and ordered the carrier to withhold delivery of the goods on that account. Thereafter, B. presented the bill of lading, which had previously been endorsed in blank, and demanded possession. On learning of the stop order, he said that he was not getting the goods for himself, but was acting as agent of C. to whom he had previously sold them. Assuming this statement to be true, is B. entitled to possession?
PARTNERSHIP

Question 5:
An insolvent partnership agreed with creditors that the business should be continued under the supervision of a managing committee, designated by the creditors, until their claims were fully paid off out of profits. Are the creditors who are parties to this agreement liable as partners to the new creditors of the continued business?

Question 6:
Answer True or False.
(a) The receipt by a person of a share of the profits of a business is in itself sufficient to establish the relationship of a partner.
(b) A partnership is an association of two or more persons to carry on as co-owners a business for profit.
(c) Any estate in real property may be acquired in the partnership name, including estate for life.
(d) Every partner is an agent of the partnership for the purpose of its business, and the act of a partner assigning the partnership property in trust for creditors or on the assignee’s promise to pay the debts of the partnership is binding on the partnership.
(e) Any difference arising as to ordinary matters connected with the partnership business must be decided by the unanimous action of the partners.
(f) A partner’s right in specific partnership property is not subject to dower, courtesy, or allowances to widows, heirs, or next of kin.
(g) A partner’s right in specific partnership property is subject matter of assignments.
(h) A person can become a member of a partnership with the consent of a majority of the partners.
(i) A limited partner’s interest in the partnership may be assigned and his assignee is admitted to all the rights of a limited partner.
(j) The contributions of a limited partner may be cash, property or services.

Question 7:
A. and B. dissolved their partnership January 1, 1920. Among their unpaid obligations was a note for $1,000.00 held by C. In 1925 A., without the knowledge of B., gave C. a new note for the original sum due on the old note and accrued interest. At that time, the statute of limitations had nearly run, only one month lacking of the statutory six-year period. In 1927 C. sued A. and B. on the renewal note. Is B. liable on the new or old note?

NEGOTIABLE INSTRUMENTS

Question 8:
Do the following provisions affect the negotiability of an instrument, otherwise negotiable. (Answer yes or no.)
(a) Payments to be made by stated installments with interest.
(b) The instrument contains an indication of a particular fund out of which reimbursement is to be made, or a particular account to be debited with the amount.
(c) The instrument is payable on demand after the 21st Amendment is ratified.
(d) The instrument is undated and bears a seal.
(e) A stipulation on the back of a note that it was secured by a mortgage, and that the payee agreed to look to mortgage security for its payment.
(f) A statement on the face of a note that it was given for rent of a specified house as per contract of even date herewith, and that it was void if the property was destroyed before maturity.
(g) A promise to pay to A's order on demand; in case of A's death the principal to be kept as a fund for a church society, interest to go to B, and in case of B's death to the society.

Question 9:
(a) Define restrictive endorsement.
(b) Give an example of restrictive endorsement.
(c) What are the rights of an endorsee under restrictive endorsement?

CORPORATIONS

Question 10:
On March 1, 1933, a receiver was appointed for the X corporation in pursuance with the provision of the General Corporation Act. On that date the corporation had $2,500.00 on deposit with the Y Trust Co. and was indebted to the bank in the sum of $5,000.00 on a note due April 5, 1933. The trust company applied the funds on deposit against the X corporation note. The receiver thereupon brought suit alleging that since the note had not matured the attempted set-off was a preference, and therefore improper. Should he succeed?

Question 11:
(a) A. has acquired all the stock of the B. Corporation. He made a contract with C in the name of the corporation. Now C seeks to hold him personally liable upon the contract. Can he do so?
(b) Could X, a creditor of A., levy on the assets of the B. Company?

AGENCY

Question 12:
(a) Give the general rule relating to the power of an agent to delegate his authority to another.
(b) How does the death of the principal affect an agency?
(c) What is the legal effect of an infant (1) creating an agency? (2) Acting as an agent?

Question 13:
A., the owner of property, appoints B. as his agent to collect the rents of a certain building. A. thereafter dies. One of the tenants without notice of A's death continues to pay the rent to B. B. thereafter absconds. Can A's administrator recover from the tenant the amount of rent paid to B?
CONTRACTS

Question 14:
A., an individual, trading under the name of the Crescent Coal Company, contracted for the purchase of coal through B's agents. Three days after the contract was made A. was asked for a statement as to "where the company was incorporated, a list of its officers and directors, and the amount of capital paid in", and B. on being informed that A. was not incorporated, replied that its understanding was that A. was a corporation, with a paid-in capital and legal existence, and declined to extend or ship the coal. A. sues B. on the contract. Who wins?

Question 15:
D's son was indebted to M, who desired additional security. D. thereupon applied to P. to become surety for the son, and promised to reimburse him if he was compelled to pay the debt. Accordingly, P. became surety, and afterwards was obliged to pay the debt. In an action by P. against D. who should prevail?

WILLS

Question 16:
A. executed his will in 1925 in due form leaving all his property to B. In 1929, A. looked for his will and failing to locate it, had a draft of another similar will drawn, which was never properly executed. In 1931, A. died, B. now attempts to probate the original will of 1925 as 'a lost will,' offering to prove its contents by the production of a carbon copy. Should it be admitted to probate?

GUARANTEE AND SURETYSHIP

Question 17:
(a) Define and explain guaranty of collection.
(b) State four methods whereby a guarantor may be discharged from liability.

INCOME TAX

Question 18:
A. in 1933 exchanged real estate which he had purchased in 1921 for $5,000.00 for other real estate having a fair market value of $6,000.00 and $2,000.00 in cash. What is A's taxable gain for the year 1933?

Question 19:
In 1932, the M. corporation sold a piece of real estate to B. for $20,000.00. The company acquired the property in 1915 at a cost of $10,000.00. During 1932 the company received $5,000.00 cash and the vendee's notes for the remainder of the selling price or $15,000.00, payable in subsequent years. Before the vendee made any further payments the company sold the notes for $13,000.00 in cash. What taxable income did the company derive from the sale of the notes? Show and explain calculations to substantiate your result.

BANKRUPTCY

Question 20:
B. was trustee under the will of K. and had misappropriated some stocks belonging to K's estate. S. was surety on B's bond as trustee, and on learning of the misappropriation, insisted on B's replacing the stock, which B. did. B. became bankrupt within four months and his trustee in bankruptcy now seeks to recover the stocks or their value from X, who succeeded B. as trustee of K's estate and who still has some of the stocks in his possession as part of that estate. Can B's trustee in bankruptcy recover from X?