

COUNCIL OF LEGAL EDUCATION

NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE

SECOND YEAR SUPPLEMENTARY EXAMINATIONS, 1994

CONVEYANCING AND REGISTRATION OF TITLE

(Monday, August 8, 1994)

Instructions to Students

- (a) Time 3 1/2 hours
- (b) Answer FIVE questions.
- (c) In answering any question, a student may reply by reference to the law of any Commonwealth Caribbean territory, but must state at the beginning of the answer, the name of the relevant territory.
- (d) It is unnecessary to transcribe the questions you attempt.

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PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.

**QUESTION 1**

Mary and John are registered joint proprietors in fee simple of property known as The Resthaven. Mary consults you and you are informed that John died on July 1, 1994 and that the property is mortgaged to A B Building Finance Ltd. to secure a loan of \$1M. to Mary and John.

- (a) How would you proceed?
  - (b) Prepare in draft an appropriate application.
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**QUESTION 2**

James Brown is the registered proprietor of Lot B, now known as 10 Queen Street, registered at Volume 1 Folio 2 of the Register Book of Titles. Lot B is part of lands comprised in a Plan of sub-division registered in 1960 and made subject to the following restrictive covenants -

- "(1) Not to erect on the said land any building for use as a shop, school or church.
- (2) The dwelling house to be erected on the said land shall be not less than 2000 square feet."

James Brown consults you with a view to using Lot B for the purpose of building a clinic and offices for his medical practice.

- (a) Prepare in draft form the necessary application.
  - (b) Outline the procedure in such applications.
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QUESTION 3

- (a) To what extent need a purchaser be concerned about the right of a mortgagee to sell the mortgaged property, and what provisions, if any, enable the purchaser to limit his enquiries in this regard?
  - (b) Outline the requirements and procedure in respect of foreclosure against registered title.
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**QUESTION 4**

(a) Simon contracted to purchase Lot A from Vivian. On presentation of the duplicate certificate of title and the transfer, Simon was informed by the Registrar of Titles that a caveat/caution was recently lodged against the title forbidding all dealings with Lot A.

Advise Simon.

(b) In what circumstances may the Registrar of Titles vest title in a party seeking to be registered as proprietor?

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**QUESTION 5**

By his will duly probated, Derrick devised "The Retreat", registered at Volume 10 Folio 5 of the Register Book of Titles, to Benjy. The executor, Eric, has now assented to The Retreat being vested in Benjy.

(i) Prepare in draft an application on behalf of Benjy in respect of proprietorship.

(ii) Would there be a difference if Eric was registered as proprietor on transmission?

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**QUESTION 6**

You act for Finance Company Limited who have given their commitment to lend \$3M. to Robert on first mortgage to enable him to purchase Lot C from Victor. The transaction is well advanced and you wish to proceed with a view to assisting Robert to meet the completion date.

- (a) Draft an appropriate letter, including any undertaking(s), to the relevant attorney-at-law in pursuance of the above.
  - (b) Outline the steps involved in a transaction in which the purchaser is obtaining a mortgage loan.
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**QUESTION 7**

In 1970, Phillip bought a parcel of unregistered land from Victor containing by survey 10 acres and obtained a conveyance therefor. In 1990, Phillip purported to sell 5 acres of the land to David for \$100,000 and gave David a receipt only for the purchase money and let him into possession. In 1991, Phillip died intestate and in 1993 Letters of Administration were granted to his widow, Marlene.

David now wishes to sell his land to Clinton for \$200,000, and consults you.

Draft a conveyance that will be effectual to vest the legal estate in Clinton.

**QUESTION 8**

Your client, Carlton, proposes to purchase -

- (i) a condominium unit/strata lot;
- (ii) 60 acres of agricultural land;
- (iii) a shop as a going concern in a shopping complex owned by the Mall Company Limited.

What enquiries, searches and requisitions would you consider appropriate in each situation?

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