

NORMAN MANLEY LAW SCHOOL
Council of Legal Education

LEGAL EDUCATION CERTIFICATE
SECOND YEAR EXAMINATION 1977

LAW OF ASSOCIATIONS

Thursday, June 16, 1977

Instructions to Students

- a) Time: 3½ hours.
- b) Answer FIVE questions only.
- c) It is unnecessary to transcribe the questions you attempt.
- d) Except where otherwise instructed on the paper, in answering any question a candidate may reply by reference to the law of Jamaica, the Bahamas, or Belize, but must state at the beginning of the answer the name of the relevant territory.
- e) Unless otherwise stated, all references to Articles of Association being in the 'usual form' mean that they are in the form set out in Table A of the Jamaican Companies Act, 1965, or of the U.K. Companies Act, 1948.

QUESTION 1

The employees of a corporation carrying on business in Jamaica wish to form an association. Advise them.

QUESTION 2

Hazel DuBonair seeks your advice on the following:

- (a) In January 1976 she had invested her savings of \$10,000 in a private company, Solar Ltd., on the suggestion of William Sleek, at the time a rather importunate suitor, who had just formed the company to promote an invention of his; he had promised her 40% of the shares of the company but she had never received any share certificate and

everytime she asked him about it, he managed to change the subject of the conversation.

(b) Since the registration of Solar Ltd. on 21st January, 1976, no meeting of any kind has been held; no dividend declared, nor accounts presented. Solar Ltd's. letter heads describe William Sleek and his brothers, John and Paul, as Directors, and Hazel DuBonair as Secretary. William Sleek has always styled himself Managing Director of the Company, and signed most letters for the company as such.

(c) On 1st May, 1977, William Sleek had given her 2 Debentures to be countersigned as Secretary and to be registered at the Registrar of Companies. Both Debentures contained floating charges on the Company's property and ranked pari passu, one in her favour for \$10,000, and the other in favour of William Sleek for \$70,000. She had not signed nor registered any of them as she was now rather suspicious of William Sleek.

(d) As Secretary of the company she received a letter from Toil and Hopeful, Attorneys-at-Law, threatening to wind up the company if they were not paid their fees of \$200 for registering the company. She knows that there are numerous trade creditors, any of whom can present a petition to wind up the company at any time.

(e) She has recently found two letters in William Sleek's desk - one, a copy dated 29th April, 1977 addressed to MOP Ltd. and signed by him as Director of the company, offering to sell the whole of the Company's undertaking for \$80,000, and the other dated 1st May, 1977 from MOP Ltd. accepting the offer.

QUESTION 3

Outline the main provisions of the Annual Practice (The White Book) and the Judicature Civil Procedure Code Act or any other relevant statute as they relate to companies.

QUESTION 4

John, who has a considerable amount of money on deposit with a Trust Corporation, received from the Trust Corporation a circular letter

marked "Private and Confidential" inviting him to invest in units of \$200.00 in a public company, Mindex Ltd., mining copper in Portland. The letter which is signed by the manager of the Trust Corporation contains a mere sketch of history of the company, the projected profits and an extract from the report of a well-known metallurgist.

Joseph, his brother, who lives at Lot 6 in Boston, Portland, received through the post a pamphlet addressed to the Occupant of Lot 6, Boston, inviting the purchase of shares in Seascope Ltd., a private company formed to develop the area into the Jamaican Riviera; the pamphlet is signed by Bill Doe, the Managing Director of Seascope Ltd., and lists 6 leading hoteliers and attorneys-at-law as Directors.

After some discussion between the brothers, Joseph sent his cheque for \$20,000 directly to the Secretary of Mindex Ltd., and John \$30,000 to the Managing Director of Seascope Ltd. They both received receipts from the companies dated 12th May, 1977 and 1st April, 1977 respectively.

They both seek your advice as neither of them has heard anything further from the companies. Unfortunately for John, this morning's newspapers carries a news item that people are storming the office of Seascope Ltd. for the return of their deposits, and Bill Doe was last seen in Monaco.

QUESTION 5

Your client Conrad Potts has handed you a letter he received from his estranged wife's attorneys for your advice. The body of the letter reads:

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Re Canary Holdings Ltd.

We act on behalf of your wife, Mrs. Mary Potts.

Our instructions are that our client and you are the signatories of the Memorandum and Articles of Association of the abovenamed Company for one share each; that at the first Directors meeting you both were elected Directors along with your eldest son Deane Potts, and our client was appointed Secretary of the Company; all the shares were allotted as follows: 40% to you, 40% to our client,

We are hereby inviting you to discussions with a view to an amicable settlement. If we do not hear from you within 14 days of the date of this letter we shall proceed to take legal proceedings to vindicate the rights of our client. "

A Mr. Dick Tater, the leader of a Political Party, and Harry Bows, the Secretary, were served with Writs of Summons and Statements of Claim. They now seek your advice. The body of the Statement of Claim reads:

1. The Plaintiff is a Medical Practitioner who resides at 13 Glittering Heights in the parish of St. Andrew and is a member of the First Defendant.
2. The First Defendant is a political party with headquarters at 13 Chancellor Street in the parish of Kingston.
3. The Second Defendant is a Minister of Religion and the elected leader of the First Defendant for life.
4. On the 13th day of May, 1977, the second Defendant at an emergency meeting of the Executive of the First Defendant which he summoned at one hour's notice and which was attended by three

members of the said Executive persuaded and/or induced the said three members to vote for a resolution to expel the Plaintiff forthwith from the First Defendant.

5. On the 17th day of May, 1977, the Plaintiff visited the said headquarters to attend a meeting of the members of the First Defendant and the Second Defendant ordered the Plaintiff out of the said headquarters.
6. The Plaintiff refused to leave and thereupon one of the said three members of the said Executive ordered several of the said members of the First Defendant to assault and beat and forcibly eject the Plaintiff from the said headquarters.
7. In the premises the Plaintiff has sustained injuries and suffered loss and damage.

PARTICULARS OF INJURIES

Multiple lacerations and contusions.

PARTICULARS OF SPECIAL DAMAGES

(a) Medical expenses	\$ 50.00
(b) Broken spectacles	<u>110.00</u>
	<u>\$160.00</u>

The Plaintiff claims

- (1) a Declaration that he is still a member of the First Defendant.
- (2) An Injunction restraining both the Defendant or each of them from doing anything to prevent the Plaintiff from entering and/or remaining on the said premises.
- (3) Damages, "

QUESTION 7

Advise Mark Jones and Bob Andrews who on 1st January, 1977 took over the firm of Edwards, Murray & Associates, Civil Engineers and Builders - James Edwards one of the original partners having died on 31st October, 1976, and Pat Murray and Sydney Bernard the other partners having retired on 31st December, 1976:

- (a) Trade Supplies Ltd., which for the past 10 years has been and is still giving the firm 100-day credit, is now pressing for payment of goods ordered by the firm in May 1976.
- (b) In January 1977 Bob Andrews had, without the knowledge of Mark Jones, done engineering work on a sub-division for Tom Spence on a 30:70 profit/loss joint venture basis between the firm and Spence. The sub-division was a failure and Spence is now demanding that the firm pays 30% of the loss.
- (c) A judgment for \$800.00 entered on the 6th May, 1976 against Sydney Bernard for stationery ordered by him for the firm is still unsatisfied.
- (d) They wish to sue a client for fees for professional services rendered in February 1977.
- (e) Bob Andrews had without the consent of Mark Jones assigned his interest in the partnership to one Harry James who is demanding inspection of the firm's books.
- (f) Pat Murray has received a letter from an attorney-at-law demanding damages for negligence in respect of an accident involving his client and the firm's motor car which was being driven by the firm's Site Manager on his way from one site to another.

QUESTION 8

Advise Tim Totley, the Liquidator of Rotax Ltd., who was appointed today, on the following points:

- (a) The Bailiff has this very morning levied on the company's property to satisfy a judgment entered in a negligence action three months ago.
 - (b) He has reliable information that a sports car which is now in the possession of Miss Norma Suite was a gift from the former Managing Director and he purchased it with the Company's monies which he had misappropriated.
 - (c) He has an offer from Partax Ltd., a rival company, to purchase the whole of Rotax Ltd.'s undertaking, the purchase price to be paid for in shares in Partax Ltd.
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