

BAR EXAMINATION QUESTIONS

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CIVIL LAW

1. A sold goods to B valued at P10,000. After delivery of the goods, B failed to pay this amount at the time agreed upon. A sued B for said amount and for P5,000 as damages alleging that had B paid on time he could have used the P10,000 and made a profit of P5,000. Is A entitled to the damages he claims?
2. A executed a will on September 15, 1930. One year later he executed another will expressly revoking the first will. The attestation clause of the second will failed to state that the witnesses signed the will in the presence of each other. Was the first will revoked?
3. (a) What are the essential requisites of the contracts of pledge and mortgage? (b) State the distinction between them.
4. Before payment of the debt, in what cases may the guarantor proceed against the principal debtor?
5. A, B and C are owners of an undivided parcel of land. They sold it to D jointly and in the same contract with a right to repurchase. A tried to repurchase the entire land but D refused to accede to A's demand. Is D's refusal sustainable? Support your answer.
6. Who are incapable to succeed by will?
7. A. donated a parcel of land to B. The latter accepted the donation by means of a registered letter which A. received and thereupon delivered the possession of the land to B. who began to cultivate it and reaped its products. Five years after the acceptance of the donation, A. died. His heirs then claimed the property alleging that there was no valid donation. Can the claim of the heirs of A. be sustained? Give your reasons.
8. Who cannot acquire property by purchase, even at public or judicial auction, either in person or through the mediation of another? Why?
9. (a) What are the essential requisites of a valid marriage? (b) Who may solemnize marriage?
10. The Director of Lands sold to A, 24 hectares of public land at 20 centavos per sq. m. The land was adjoining a river which after the sale changed its course and left its bed dry, the area of which is two hectares. The purchaser, A, claimed and occupied this portion of land alleging right of accretion, to which the Director of Lands objected contending that the purchaser

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only bought 24 hectares at a specified price per sq. m. and consequently he has no right to claim said portion of land, it being in excess of what he bought. Who owns the two hectares in question?

CRIMINAL LAW

1. Distinguish theft and estafa.
2. How may direct assaults upon persons in authority and their agents be committed?
3. How is the crime of illegal association distinguished from that of illegal assembly?
4. What are the essential elements of the crime of forcible abduction?
5. In an action filed in Court against certain dissidents, the latter have been charged with the crime of rebellion complexed with multiple murder, arson and robberies. The defense raised as one of the main issues in the case that the murders, robberies and arsons alleged in the information are inherent and essential elements of the crime of rebellion. If you were the Judge called upon to decide the case, how would you resolve this issue? State your reasons.
6. State in what ways concubinage may be committed?
7. What is the distinction between habitual delinquency and recidivism?
8. When and how may rape be committed?
9. (a) State the necessary elements of the crime of infidelity in the custody of documents. (b) Is the mere act of affiliating with, and becoming member of, the communist party of the Philippines, constitutive of a crime under the Revised Penal Code? Why?
10. Into how many classes are circumstances affecting criminal liability divided? Define and give examples of each.

COMMERCIAL LAW

1. TRUST RECEIPT: a. Define (3%) b. Use and Purposes (3%) c. Explain briefly the general liabilities and obligations of the trustee (4%)
2. VOTING TRUST: a. Define the nature and explain briefly the purposes of a voting trust (5%) b. Is there any limitation as to the length of the period of time a voting trust can be legally binding? Is it revocable for any cause within the time agreed upon? State reasons briefly (5%)
3. PEDRO SANTOS, married to MARIA DE LA CRUZ, is planning to invest P10,000.00 in a corporation, and comes to you for advice as to whether he should have the Certificate of Stock issued to "PEDRO SANTOS AND/OR MARIA DE LA CRUZ" or to "PEDRO SANTOS AND MARIA DE LA CRUZ, JOINT TENANTS." What would be your advice? State your reasons briefly. (10%)

4. State some of the rights as well as some of the obligations of an employee or a laborer under the recent Minimum Wage Law (10%)

5. The Captain of ss "OSIRIS", of Philippine registry, in the course of a voyage to Sidney, Australia, was caught by a severe typhoon that marooned the ship along a small island in the South Pacific. The Captain wants to replenish his food supply before continuing his voyage, but he has no funds and does not expect to receive any from the ship agent. What is the successive order provided by law to obtain such needed funds? (10%)

6. NEGOTIABLE INSTRUMENTS: a. State the common forms of negotiable instruments (3%) b. State in brief the commercial functions of negotiable papers (7%)

7. State the reasons in which a warehouseman can legally refuse delivery of goods covered by a warehouse receipt (10%)

8. INSOLVENCY: a. What is known as discharge in insolvency? (4%) b. Enumerate the legal effects of the discharge of an insolvent debtor, and the exceptions thereto, if any (6%)

9. PUBLIC UTILITY: What are the elements to be considered in determining whether or not a rate in a public utility is just and reasonable (10%)

10. INSURANCE: a. What is considered as an insurable interest in property? (5%) b. When are the proceeds of a life insurance policy considered conjugal even though the policy was made payable to the decedent's estate? (5%)

REMEDIAL LAW

1. Write out a complaint for the ejectment of a defendant who failed to pay for six months the rent of the house he is occupying, situated in the city of Manila. Make it complete.

2. Explain the difference, if any, between a motion for reconsideration of a judgment and a motion for new trial. Reason out your answer.

3. Discuss the admissibility or inadmissibility of papers or other articles illegally or improperly seized from the accused, if offered as evidence against him.

4. Juana de la Cruz is prosecuted for the murder of her husband. According to police investigation, there is no witness who can testify as to how the murder was committed, except a granddaughter of both the accused and the murdered man, named Alicia who at the time was living with her grandparents. Question: Can the court order Alicia to testify as witness for the prosecution? Reason out your answer.

5. Distinguish executor from administrator.

6. How and when a motion to quash a criminal complaint or information has to be filed?

7. If both spouses are dead, leaving their conjugal properties unliquidated, do you have to institute two separate testate or intestate proceedings for the liquidation of their conjugal partnership? Give reasons.

8. Under what circumstances may the court appoint a special administrator of the estate of a deceased person?

9. (a) If the court of first instance for some reason or other refuses to give due course to your Record on Appeal, what is your remedy? (b) In what cases can a private individual bring an action of *quo warranto* in his own name?

10. Specify two grounds for a motion to dismiss the plaintiff's complaint.

POLITICAL LAW

1. (a) What are the two well-known doctrines on questions of citizenship? (b) After the adoption of the Philippine Constitution, which of the two doctrines now predominates? (c) A is born in the Philippines of a Chinese father and a Filipina mother. Does such birth *ipso facto* confer Philippine citizenship on A?

2. (a) What is a *de jure* government? A *de facto* government? (b) What is a puppet government? Is a puppet government *de jure* or *de facto*? (c) What is the status of the "Philippine Republic" under the Japanese occupation?

3. (a) What is the constitutional ground for the removal or suspension from office of any official or employee in the Civil Service? (b) To what is a civil service official or employee entitled before he can be removed from office? (c) May the President of the Philippines, with the consent of the Commission on Appointments, appoint and transfer a fiscal from one province to another without the latter's consent?

4. (a) What is the Writ of *habeas corpus*? (b) What courts have jurisdiction to issue the writ? (c) In what cases may this writ be suspended and by whom? (d) A, the head of an employment agency, brought over a maid from the province to A's place in Manila. Without physical force but because of A's moral dominance over the maid, the latter could not leave A's place. Will a petition for *habeas corpus* prosper against A?

5. (a) A, who in a general election, obtained the 7th highest number of votes for councilor of Municipality of X, filed his motion of protest against the six candidates who were voted for and proclaimed elected. The trial court, after considering the pleadings and evidence, found that the protestees were duly elected and dismissed the protest. Is the order of dismissal appealable? (b) B, who in a general election, obtained the 7th highest number of votes for Councilor of Municipality of Z, filed a motion of protest against F who obtained the 6th highest number of votes and proclaimed elected. The protestee moved that the proceedings be dismissed on the ground that the Court has no jurisdiction over the case for failure of protestant to include the other five candidates voted for and proclaimed elected. The Court after hearing the arguments of both parties dismissed the protest. Is the order of dismissal appealable? (c) If you are the attorney for both A

and B, what action or actions would you take to protest the rights, if any, of your clients?

6. Define: (a) Public Office (b) Officer (c) Ministerial officer (d) Office is a trust.

7. Name five powers of the President under the Constitution of the Philippines.

8. What is meant by: (a) Collective bargaining (b) Closed shop agreement (c) Lockout.

9. (a) Upon the complaint of some neighbors, the Mayor of a City ordered the removal or demolition within 48 hours of a house which is being constructed in an alley used from time immemorial by said neighbors in going to Market. Is the order valid? (b) Upon the complaint also of some neighbors, the Chief of Police of a City closed a patis and bagoong factory, for offensive odors discharging therefrom. Is the summary action taken by the Chief of Police valid?

10. Companies engaged in the interisland shipping are required by an Act of Congress to carry mail without cost to the Government. Is said Act unconstitutional for taking the property without due process of law and denial of equal protection of law?

NOTE ON HYPOTHETICAL CASES: A credit of 65% shall be given to a correct answer and 10% to an erroneous one. From 1% to 35% will be added to 65% and from 1% to 65% to 10% for reasons given in support of the answer.

LAND REGISTRATION AND MORTGAGES

1. Within what time may an action to recover damages from the assurance fund be brought?

2. What is the effect, if any, of the annotation of an encumbrance on the original of a certificate of title when not annotated on the duplicate?

3. Can a mortgagor of a personal property move the same from place to place?

4. Against whom should the action against the assurance fund be presented?

5. Can a mortgagee make an application for registration of title to the mortgaged property without the consent of the mortgagor?

6. In case two or more certificates of title include the same parcel of land, which certificate should prevail?

7. Who may ask for the issuance of a writ of possession?

8. What act operates to effectively convey and bind a land registered under the Torrens Law?

9. In what court can an action to foreclose a real mortgage be brought when it covers a parcel of land situated in two provinces?

10. Does the failure to register a real estate mortgage render the same void even as between the immediate parties? If so, what is it good for?

INTERNATIONAL LAW

1. What do you understand by the principle of territorial inviolability of a sovereign State?

2. When or in what cases may a foreign sovereign State be sued in the courts of another sovereign State? May the property in the forum of the foreign State which is sued be attached or seized under court processes without its consent?

3. In case of acquisition of territory by conquest, when or from what moment does the conquered territory become an integral part of the domain of the conquering State?

4. What do you understand by the principle of postliminy (*ius postliminii*)?

5. What foreign laws and rights based thereon may be enforced and given effect in the courts of another State?

6. In case of intestate succession, what laws govern the succession to, and the distribution and disposition of, (a) the personal property, and (b) the real property, belonging to the intestate estate?

7. What are the two principal theories on the jurisdiction of the authorities of a sovereign nation over crimes committed on board merchant ships which enter its territorial waters? Which of the two theories is followed in this jurisdiction?

8. In the absence of antenuptial contract, what laws determine the respective rights of the spouses in (a) the real property, and (b) the personal property, belonging to the conjugal partnership?

9. What laws govern the testamentary capacity to dispose of (a) personalty, and (b) realty?

10. By what laws are the validity and the due execution of the last will and testament of a person determined? May a citizen or subject of a foreign State domiciled in the Philippines validly execute a will in this country in accordance with the laws of the State of which he is a citizen or subject?

LEGAL ETHICS AND PRACTICAL EXERCISES

1. (a) What does the term Legal Ethics mean to you? (b) The Canons of Professional Ethics of the American Bar Association, as adopted by the Philippine Bar Association in 1917 and again in 1946, are obligatory and binding upon the lawyers? Why and How?

2. (a) What can be inferred from the rule that an attorney is an officer of the court? (b) What are the duties of the lawyer to the courts?

3. (a) How many kinds of contempt to court are there? (b) Give as many instances that you can remember of contempt which are not direct contempt.

4. Make a brief exposition of your opinion as to the civil liabilities of attorneys to their clients with indication of the rules to determine such liability.

5. The spouses John and Mary have no issue nor any other forced heir. They repair to the office of their lawyer Peter and request him to prepare their joint will in a single instrument wherein each spouse designates the other as the sole heir of their respective properties. The spouses, of course, are agreeable to pay whatever fees the lawyer would demand for his work. If you were the lawyer, would you prepare the joint will as requested by the clients? Explain your answer.

6. Richard Roe, a lawyer, without having been engaged therefor, files a complaint in the Court of First Instance of Manila in behalf of Mr. So and So who immediately protests to the Court against the lawyer's conduct. (a) What offense, if any, has Attorney Richard Roe committed? (b) If in your opinion he has committed an offense, what punishment may be imposed against him?

7. A client delivers to his lawyer P1,000.00 with which to pay the client's taxes. The lawyer instead of paying said taxes as directed, retains the money in payment of his fees for services rendered in a previous case which the client had failed to pay. Was it lawful for the lawyer to retain his client's money? Whatever would be your answer state your reason.

8. (a) What formalities are to be observed by a lawyer who desires to withdraw from a case? (b) If a client desires to have "A" as additional counsel in the prosecution of case and "B", the original counsel of record objects to the aid or collaboration of "A", may the latter accept employment and render professional services in said case? What is your opinion?

9. Prepare in due legal form an application to be filed before a competent court praying for the issuance of a writ of HABEAS CORPUS of Peter POE, said to be unlawfully detained and deprived of his liberty.

10. Prepare an information to be filed in the Court of First Instance of Manila against Manuel de la Rueda charging him with the crime of theft of a jeepney valued at P2,000.00, the property of Gregorio Manso.