

EXAMINATION PAPER

TRUSTS AND DUTIES OF TRUSTEES

Read Carefully: Place your name and full address at the head of the paper. Any cheap, light paper like the sample previously sent you may be used. Do not crowd your work, but arrange it neatly and legibly. *Do not copy the answers from the Instruction Paper; use your own words, so that we may be sure you understand the subject.*

1. What was the object of Parliament in passing the Statute of Uses? What was the most important result of this statute?
2. In what three ways may express trusts be created? Illustrate.
3. Name three principal advantages of using trusts at the present time. Explain the two possible meanings of the word "trustee".
4. In what respect is a trust of chattels similar to a bailment? To a debt? In what respect dissimilar?
5. *A* deposits a draft in the *X* bank for collection. Is the *X* bank a trustee or debtor? Suppose the *X* bank collects the money, may it place it with its general funds and make itself a debtor?
6. *A* endorsed to a San Francisco bank a draft upon *B* in Portland. The San Francisco Bank sent the draft to its correspondent bank in Portland; the latter collected the money and then became insolvent before remitting. What is the extent of the liability of the San Francisco bank?
7. *A* owes *B* \$200; *A* sells *X* a horse for \$200 and *X* promises *A* that he will pay the purchase price to *B* in satisfaction of *A*'s debt to *B*. Does *X* become a trustee? Why? What is *B*'s remedy against *X* if *X* fails to pay as agreed? What is the English law on this point? Why?
8. *A* devised certain properties of *B* "hoping that *B* will at her death distribute the residue among *A*'s relatives." Is *B* a trustee?
9. *A*, owning and having in his possession a horse, said to *B*: "I give you this horse". What are *B*'s rights? Suppose *A* had

TRUSTS AND DUTIES OF TRUSTEES

said, "I hereby declare myself trustee of this horse for you", what would be *B*'s rights?

10. In what two important respects does the law as to charitable trusts differ from that of private trusts? Illustrate.

11. How may a trustee be removed? How will a court remove an infant trustee?

12. *A* conveys property to *T* upon trust for *X*; before *X* hears of this, *A*, having changed his mind, induces *T* to reconvey the land to *A*. Discuss *X*'s rights.

13. Trust property is located in Illinois, but the trustee is in Indiana; the *cestui* wants to get a conveyance from the trustee. In which state will he properly bring his suit?

14. *T* having trust money to lend loaned it to *X*; at maturity *X* failed to pay. Who should sue *X*, *T* or the *cestui*? Suppose *T* had borrowed money from *Y* to carry on trust business, whom should *Y* sue to collect, *T* or the *cestui*?

15. *A* bought land of *B* and, by *A*'s request, *B* conveyed the land to *A*'s son, *M*; later *A* demands a conveyance from *M*; is he entitled to it? Is it important that the conveyance was made to *A*'s son instead of to a stranger?

16. *A* gratuitously devised property to *R* in trust for *S*; *S* died before *A*; who is entitled to the property upon *A*'s death? Would it make any difference if *A* had been paid for the devise?

17. *A* conveyed land to *B* upon an oral trust to reconvey it to *A* whenever *A* should request it; upon *A*'s later request *B* refused; what remedy has *A*?

Suppose *A* had borrowed money from *B* and had conveyed the land as security upon an oral agreement to reconvey when the debt should be repaid; what is *A*'s remedy when he repays the debt?

18. *A* gratuitously devised a piece of land to *R* in fee in trust for *S* for life; he devised another piece of land to *X* in fee subject to a trust for *Y* for life. After the death of *A*, *S*, and *Y*, who is entitled to the property?

19. *A* wrongfully takes a horse from *B*; how shall *B* proceed to get the horse back?

Suppose that before *B* discovers the wrongful act, *A* has sold the horse and invested the proceeds in a piece of land. Is *B* entitled to the land, and if so, how will he get it?

TRUSTS AND DUTIES OF TRUSTEES

20. *T* took \$500 of his own money and \$500 of trust money and bought with the \$1,000 a piece of land. What would you advise the *cestui* to do if the land increased rapidly in value? If it decreased?

21. Among other trust property which *T* held for *C* was a lease of a piece of land from *X*; upon the expiration of the lease, *X* refused to make a new lease to *T* for the benefit of *C* but was willing to make a lease to *T* for *T*'s own benefit. *T* thereupon accepted the lease. Has *C* any right to the new lease?

22. *A* devised one piece of land to *R* and another to *X*; *A* then sent a letter to *R* telling him that he expected him to hold the land for the benefit of *S*, and a similar letter to *X* that *X* should hold for *Y*; *R* received the letter addressed to him, but the one sent to *X* did not reach *X*. Upon *A*'s death what are the rights of the parties?

23. *A* by fraud induced *M* to convey to *A* a piece of land and fraudulently persuaded *L* to transfer to *A* a team of horses. Discuss the appropriate remedy of *M* and *L* to get back their property?

24. In violation of his trust *T* conveyed the trust property to *X* who first received notice of the trust after the conveyance but before he had paid any of the purchase money; is *C*, the *cestui*, entitled to the property?

Suppose *X* had paid part of the money in good faith before notice, would he be entitled to keep the property?

25. In violation of his trust *T* conveyed trust property to his son *L* by way of gift; *L* before notice of the trust sold and conveyed the property for \$1,000 to *R* who paid for it and received the conveyance in good faith without notice of the trust; *R* then sold and conveyed the property to *S* who had notice of the trust, and *S* in turn conveyed the property to *C*. Discuss separately the liability of *T*, *L*, *R*, and *S* to *C*.

26. *T*, by authority of the *cestui*, loaned \$500 to *Y* and took a non-negotiable note therefor. Later, in violation of his trust, *T* sold and assigned the note to *H* who paid value for the same in good faith. Is *H* entitled to keep the note as against the *cestui*?

27. *T* is trustee of certain personalty for *C*; *C* sold and assigned his interest to *X* and then in fraud of *X* later sold and assigned the same interests to *Y*; *Y* notified *T* of his assignment before *X* noti-

TRUSTS AND DUTIES OF TRUSTEES

fied *T* of the assignment to himself. Who is entitled to protection, *X* or *Y*?

28. *T* being trustee for *C*, *T* dies without heirs; what becomes of the legal title? What becomes of *C*'s interest?

Suppose instead of *T* dying, *C* had died without heirs, what becomes of *C*'s interest?

29. *T* being trustee for *C* of certain land, *T* and *C* both die, each leaving a widow; which widow is entitled to dower?

Suppose *T* and *C* had both been married women and both had died leaving surviving husbands, which widower would be entitled to curtesy?

30. *A* devised a fund to *T* upon trust to pay the income thereof to *B* for life or till he should become a bankrupt; if *B* became a bankrupt *T* should then pay to *B* so much only of said income as *T* should in his uncontrolled discretion think fit. *B* later became bankrupt. What are the rights of *B*'s creditors?

31. *M* devised \$20,000 to *T* upon trust to pay the income to *A* for life free from the control of *A*'s creditors. Discuss the rights of *A*'s creditors.

32. *T* being trustee for *C* of a plumbing business, borrowed \$500 from *X* for his own purposes and bought from *Y* \$600 worth of plumbing supplies for the purpose of carrying on the plumbing business. *T* became insolvent. Discuss the rights of *X* and *Y* against the trust property.

33. *T*, having trust funds to invest, loaned part to *R* upon the personal security of *R* and *S*; loaned another part to *X* upon the security of a second mortgage on *X*'s farm; with a third part he bought a house and lot; a fourth part he invested in the stock of a glue factory; and the residue he placed in a bank in his own name. Discuss *T*'s liability to the *cestui* for these acts.

34. Suppose a trustee is robbed of trust money; under what circumstances is he liable to the *cestui* to make the loss good?

35. May a trustee employ a broker to sell trust property? An auctioneer? Must the trustee be present at the auction?

**After completing the work, add and sign the following statement:
I hereby certify that the above work is entirely my own.**

(Signed)