

Common Law Contracts Examination Fall 2005  
Professor Dickinson

Instructions:

1. This is the examination for the course in Common Law Contracts offered by Professor Dickinson required of all candidates for the Juris Doctor, MIP, and LLM (IP) Degrees.
2. You will have three hours within which to consider, formulate and record in the examination books provided your responses to the questions propounded in the examination unless the Dean's Office has established a different time period.
3. Be deliberate not impulsive. Write your considered response in ink only on the right hand pages of the examination book. Write your examination number on the cover of each examination book you choose to submit. Designate by the part and number the question you are addressing before each response.
4. You are not to have any written or other materials than this examination and the scratch paper provided with you during the examination's administration except that you may have and consult a printed or electronic single purpose English-first language (not including English) dictionary with you. This dictionary shall not be able to be used for any purpose other than that of a dictionary.
5. This examination consists of three Parts (I, II, III). Each part consists of a statement of facts followed by a question calling for your response. (I/1-III/1)

The time available for you to consider then formulate and record your response is sufficient for the purpose. Use the time to think deliberately about the best solution to the problem presented compelled by the law. DO NOT begin to write a response before you have first outlined that response on scratch paper to a reasoned conclusion. Use the questions as opportunities to demonstrate your facility with the law of contracts by resolving the problems presented through the questions. The task is to address and resolve the questions presented articulating in writing the reasons supporting the Resolution you have determined.

---

## **PART I**

Omidous e-mailed Emile "Will you sell me your best pasture? Reply lowest cash price." Emile e-mailed back the same day "lowest cash price for my best pasture \$55,000.00."

1) Did Emile make an offer?

See: TEXT, pp.31

---

## **PART II**

Officer Obie was a police detective assigned to investigate burglaries. He was snowed under with work because there had been a rash (a large number) of burglaries over the preceding month. Citizen Donna was burglarized but was most dissatisfied with the lack of any apparent progress in the investigation being slowly conducted by Obie because she needed the stolen goods to return to Rent To Own before the charges for those goods exceeded her bank account. She promised to pay Obie \$1000.00 if he would move her case to the top of his to-do list. Obie did so and quickly solved the case obtaining the return of the goods.

1) Donna has refused to pay the promised \$1,000.00. Can Obie compel Donna's payment to him through legal process?

See: 103 A. 24 (1918) and Text 165.

---

## **PART III**

Buyer wished to find and buy a place to spend weekends in the country. Seller was tired of farming and ready for golf and Florida so she posted a for sale sign by the lane to her house. Buyer driving by saw the sign and stopped to inquire of seller. Buyer was particularly taken by the view he believed would be lovely if the falling down ugly icehouse on land across the road from the premises for sale was not there. Buyer and seller discussed price and the timing of any potential transaction to the point that both believed that going forward would result in a transaction that both desired. As the two without the assistance of counsel or broker worked through the details of financing, cost of survey, pre transfer insurance, property tax proration etc. the buyer expressed concern about the icehouse and asked if Seller thought that the across the road land owner would be amenable to its removal. Seller declared that she thought that was not a problem as she was the owner of the icehouse and she could agree to its removal and believed that the owner of the land upon which the icehouse squatted would not object. The buyer reacted to this declaration with "Oh! Would you"? The seller replied that if it would move the sale along he would have the icehouse removed. With that the buyer determined to move the negotiations along to a conclusion.

Ultimately the buyer and the Seller both signed a standard written purchase and sale agreement specifying the sale of the farm for the agreed price. The written contract specified the price to be paid by the buyer together with his apportioned share of property

tax and water charges. It also provided that the Buyer could procure a survey of the land at his expense and that the buyer could withdraw from the deal if the survey results were dissatisfying to him. The contract provided that the seller was to transfer a full covenant deed of the premises described or as it might become described by the surveyor if the survey is had and accepted. The seller was also to pay her share of taxes, water charges and insurance for the time preceding the transfer and she was also to transfer all the personal property on the farm and represent that she owned it.

The transfer of farm for money occurred without complication. The farmer is now golfing in Florida and has sworn never to return to the cold inhospitable North East. The buyer has moved in. She needed only a suitcase as the furniture came with the farm and suited her tastes for the quaintly rustic. What did not suit her was the ugly blemish of the icehouse as the sun sank slowly behind it evening after evening. It is beyond doubt that the seller has not met the undertaking to remove the icehouse and that he does not intend to do so.

1) Assuming that the seller will not contest the buyer's version of the interchange between buyer and seller concerning the icehouse as they negotiated the terms of their agreement can the buyer compel the seller to remove the icehouse?

If so, why? And if not, why not?

See: Text pp 383-387 and 247 N.Y. 377, 160 N.E. 646