

THIS PAPER IS NOT TO BE REMOVED FROM THE EXAMINATION HALLS

UNIVERSITY OF LONDON

265 0031 ZA

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DIPLOMA IN LAW
LLB EXAMINATION
for External Students

INTERMEDIATE EXAMINATION (Scheme A)
FIRST AND SECOND YEAR EXAMINATIONS (Scheme B)
GRADUATE ENTRY LEVEL I (Route A)
GRADUATE ENTRY FIRST YEAR (Route B)

BSc DEGREES
for External Students

MANAGEMENT WITH LAW, LAW WITH MANAGEMENT, ACCOUNTING
WITH LAW AND LAW WITH ACCOUNTING FOR STUDENTS IN THE
EXTERNAL PROGRAMME

Common Law Reasoning and Institutions
(New Syllabus for student registered from 1 September 2007)

Thursday 29 May 2008 : 10.00 – 1.15 pm

Candidates will have **fifteen minutes** during which they may read the paper and make rough notes **ONLY** in their answer books. They then have the remaining **THREE HOURS** in which to answer the questions.

Candidates must answer the **COMPULSORY** question in **Part A** and **THREE** from the **SEVEN** questions in **Part B**.

Candidates should answer all parts of a question unless otherwise stated.

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PART A

Candidates must answer this **COMPULSORY** question.

- (a)
1. How would you go about finding the following article on the online library?

‘The doctrine of precedent and the provocation defence: a comment on R v James.’ M.L.R. 2006, 69(5), 819-831
 2. On which government website can you read Parliamentary debates?
 3. What do the following abbreviations stand for: M.L.R and Cr App R?
 4. If you searched for R v Smith (2001) what problems would you encounter and how would you solve them?
 5. What is the name of the statutory independent body which keeps the law under review?

(Answer all questions – total five marks)

- (b) State which research essay you undertook, and answer all the following questions:
- (i) list the sources you identified as being of relevance to writing the essay;
 - (ii) explain the research process that gave you the sources above and the keywords you used to find the information. Explain any difficulties you faced in finding the information and the steps you took to overcome those difficulties;
 - (iii) reflect on how useful you found the sources listed under 1 above according to how relevant, authoritative and reliable they were;
 - (iv) If you were to undertake the same research exercise tomorrow what would you do differently?

(Answer all sections – total 20 marks)

PART B

2. Why do we need legal systems? Could we imagine societies without them?
3. To what extent do Lord Woolf's reforms of civil process attempt to redefine the aims and objectives of the process?
4. 'The steady increase in spending on legal aid in recent years is unsustainable. The overall budget has increased by £500 million since 1997 alone to £2 billion last year, and the steep rise in criminal legal aid is putting severe pressure on what is available to fund civil and family legal aid.' (Carter Review)

What consequences does Carter draw from this and do you agree with his recommendations?

5. 'Changes to the selection process for the senior judiciary in England and Wales have as yet made no difference to the range of people appointed. In view of the diverse functions of the modern judiciary it is imperative that a more representative judiciary be achieved and reformers may have to rethink again the selection process.'

Discuss.

6. EITHER
 - (a) Critically analyse at least two models of criminal justice. To what extent does the use of such models advance our understanding of the criminal justice system?

OR

- (b) Are rights sufficiently protected in the criminal justice system?

7. Read the provisions of the following fictitious Act and advise on the situations that follow.

The Prevention of Unwanted Parties and Control of Noise Pollution Act 2008 contains the following provisions:

1. This Act applies to a gathering on land in the open air of 100 persons or more at which amplified music is played during the night and which is by reason of its loudness and duration and the time at which it is played, likely to cause serious distress to the inhabitants of the locality.
2. If, as respects any land in the open air, a police officer of at least the rank of Superintendent reasonably believes that –
 - (a) two or more persons are making preparations for the holding there of a gathering to which this Act applies,
 - (b) ten or more persons are waiting for such a gathering to begin there, or
 - (c) ten or more persons are attending such a gathering which is in progress,

he may give a direction that those persons and any other persons who come to prepare or wait for or to attend the gathering to leave the land and remove any vehicles or other property which they have with them on the land.

3. It is sufficient for the direction under section 2 to be communicated to them by any constable at the scene.
4. A direction under section 2 above does not apply to an exempt person.
5. A person who knowingly fails to comply with a direction commits an offence.
6. In proceedings for an offence under section 5 it is a defence for the accused to show that he had a reasonable excuse for continuing the music or failing to leave the land as soon as reasonably practicable.
7. A constable in uniform who reasonably suspects that a person is committing an offence under section 5 may arrest him without a warrant and seize any equipment which he reasonably believes is being used or is to be used to play music.
8. Under this Act—

“exempt person” means the occupier, any member of his family or his employee or agent of his and any person whose home is situated on the land;

“land in the open air” includes a place partly open to the air.

(question continues on next page)

9. If a police officer of at least the rank of Superintendent reasonably believes that circumstances exist which would justify the giving of a direction under section 2 in relation to a gathering to which that section applies he may authorise any constable to enter the land.

Advise William, Ian and Curtiz in the following situations whether the police were authorised under the above Act to make the arrests and/or seize equipment.

1: William, a rich banker holds a party in his garden. Fifty people are invited; 150 turn up. He hires a tent which can hold 100 people and is open completely on one side. He places his music equipment inside. He plays Beethoven and Wagner for four hours from 8pm and then an impromptu Karaoke session begins. All his neighbours are at the party. At 3 am a group of born-again hippies squatting in a nearby field complain to the police that they are suffering severe mental and physical distress as a result of the music. A police constable orders William to shut down the party, William refuses and is arrested.

2: Ian makes his living organizing parties in unoccupied factories or on open sites. He has planned a large event in a public park just inside London. He expects about 3,000 people to attend, coming by car and paying on arrival. The event has been advertised in various London clubs and on pirate radio stations. Ian begins to set up the sound system on his own. The sound system is run from Ian's laptop computer and the stage is set up underneath a clump of trees to improve the sound quality – the branches of the trees provide a kind of roof over the stage. There are twenty people sitting in the field watching Ian while he is setting up. A police superintendent is informed of the advertising and instructs three police constables to go to the scene. Ian sees them arrive and begins to write a letter to his mother on his lap top. They order him leave the park but he insists he is doing nothing wrong whereupon they arrest him and seize both the sound system, and his laptop computer.

3: Curtiz is conducting a party in a substantial disused barn on a farm of a friend who is abroad on holiday. The barn walls on four sides and a large door that may be closed but the roof has been removed. Curtiz expects about 100 people to attend; 1,000 arrive and crowd inside. A detective constable from the Drugs Squad dressed in a hooded top and combat fatigue trousers, who has tagged along with some of the people who have turned up in the hope of observing drug use, arrests Curtiz.

8. 'The real risk to the common law is not its movement to cover new situations and new knowledge but [that] it should stand still, halted by a conservative judicial approach. If that should happen, and since the 1966 practice direction of the House it has become less likely, there would be a danger of the law becoming irrelevant to the consideration, and inept in its treatment, of modern social problems. Justice would be defeated. The common law has, however, avoided this catastrophe by the flexibility given it by generations of judges.'
[Lord Scarman]

Discuss.

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