

THIS PAPER IS NOT TO BE REMOVED FROM THE EXAMINATION HALLS

UNIVERSITY OF LONDON

265 0030 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
(Old Syllabus for student registered before 31 August 2007)

Tuesday 19 May 2009: 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 should answer **FOUR** of the following **EIGHT** questions.

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

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1. 'The jury has outlived its purpose and can be discarded.'

Discuss.

2. 'There is an acceptable and an unacceptable "politics of the judiciary". Reforming the selection process of the judiciary is an essential part of enhancing the acceptable and avoiding the unacceptable.'

Discuss.

3. Complaints that coastal fish stocks were being exhausted by large vessels using sophisticated equipment led to the (fictitious) Inshore Fishing Act 2008. The long title of the Act describing it as, 'An Act to preserve fish stocks, to establish a licensing system, and for related matters'. The Act requires those fishing 'in the course of a business' within three miles of the coast (the 'controlled area') to obtain a Ministry licence and restricts the issue of licences to those operating vessels under 100 tons. Section 3 makes fishing in the controlled area without a licence an offence and the Act also provides:

Section 4 Any licensee who within the controlled area uses in fishing for sea fish any ring net or similar net commits an offence.

Section 5 Any person who for consideration supplies fish caught within the controlled area to any other person, being a person carrying on a business of fishing for sea fish but who is not a licensee under this Act, commits an offence.

- (a) William, who operates a 1,000 ton ocean-going trawler and is therefore ineligible to hold a licence, paid Allen, a licensee, £10,000 on the informal understanding that Allen would give him first refusal on all his catches. Allen has returned from a fishing trip with a full catch and was looking for William when he was arrested and charged under s.5.
- (b) Blake takes parties of holiday-makers for trips close to the shore in his motor boat. Part of the attraction is that the trippers receive fish caught by Blake during the trips, using a small net which he operates in much the same way as a ring net but is much smaller and which Blake made for himself, since no nets of that size are available for purchase. Upon returning from a trip with 10 passengers and some 19 fish he has been arrested for fishing without a licence and for the use of this net.

(question continues on next page)

- (c) Charles, who holds no licence, was found pumping fish from a ring net into his 90-ton trawler within the controlled area. He has been charged under s.3, but says that the catch was made outside the controlled area and that his trawler must have been pushed into that area by the weather conditions during the pumping operation. Sea conditions had been unusually stormy for the previous two days with a strong gale blowing towards the land.

Advise Allen, Blake and Charles. (You may assume that nothing in the Act conflicts with the United Kingdom's Treaty obligations.)

4. 'Our image of civil justice is distorted if we concentrate upon trials. The main action takes place elsewhere and all attempts to reform must take into account the whole landscape.'

Discuss.

5. 'A rule as to precedent (which any court lays down for itself) is not a rule of law at all. It is simply a practice or usage laid down by the court itself for its own guidance and, as such, the successors of that court can alter that practice or amend it or set up other guidelines, just as the House of Lords did in 1966.' (Lord Denning in *Davis v. Johnson*)

Discuss.

6. What would an ideal criminal justice system look like? How does the current system in England and Wales compare with that ideal?
7. 'Although legal aid policy is driven by the need to control costs and achieve value for money, there are also ways in which it is influenced by concepts of access to justice and welfare provision as well as by arguments drawn from both European human rights law and EU law.'

Discuss.

8. 'The jurisprudence of Article 6 links together "independence and impartiality" as concepts that are fundamental to the notion of the fair trial.'

Discuss.

END OF PAPER