

UNIVERSITY OF LONDON

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**LLB EXAMINATION**

for External Students

PARTS I AND II EXAMINATIONS (Scheme A)

THIRD AND FOURTH YEAR EXAMINATIONS (Scheme B)

GRADUATE ENTRY LEVEL II (Route A)

GRADUATE ENTRY THIRD 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

**Evidence**

Tuesday 19 May 2009 : 2.30 - 5.45 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, **INCLUDING AT LEAST ONE FROM PART A AND ONE FROM PART B.**

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

## **PART A**

1. How has the Human Rights Act 1998 affected the law relating to hearsay?
2. 'The rule that an expert witness may not give evidence on the ultimate issue is frequently ignored – and rightly so.'

Discuss.

3. 'Riddled with anomalies and plagued by obscurity.' (Goudkamp)  
Is this a fair assessment of those provisions of the Criminal Justice Act 2003 which govern the admissibility of evidence about a defendant's bad character?
4. 'Where serious or potentially criminal allegations are involved in civil proceedings, a higher standard of proof is required.'

Discuss.

## **PART B**

5. Oliver is charged with the murder of Nick. The case for the prosecution is that Nick was stopped in Foregate Street, Worcester, by two men: Oliver and Miles. Oliver attacked Nick, who defended himself. At first Miles, who was carrying a knife, took no part, but after some minutes Oliver called out to Miles, 'Finish the bastard! Use your knife!' Miles did so, and Nick died from the wound that he received. Miles was arrested a week later. He was interviewed under caution in the presence of a solicitor and admitted stabbing Nick at the instigation of another man, whom he would not name. In due course, Miles pleaded guilty to murder and was sentenced.

Before his arrest Miles had a conversation with Penelope, his partner, in the course of which he admitted stabbing Nick and described the part taken by Oliver. After Miles had been sentenced Penelope made a written statement to the police giving an account of what Miles had told her. Penelope originally agreed to give evidence at Oliver's trial, but since then she has told the police that she is afraid to do so because she has received anonymous telephone calls, which she believes came from Oliver's sisters, threatening that she would be 'wiped out' if she gave evidence. Miles has refused to cooperate with the police in their investigations concerning Oliver.

When interviewed by the police, Oliver declined legal advice and refused to answer any questions. Apart from Penelope, the only witness available to the prosecution is Quentin, who says that he saw the fight in which Nick was killed and thinks that Oliver, whom he had known at school, was one of the attackers.

Discuss the evidential matters arising.

6. Robert, aged 45, is charged with raping Susan, aged 30. Susan says that she met him for the first time at a party, and that later in the evening he invited her back to his house to hear some vintage recordings of Beethoven symphonies. He attempted to have sex with her while she was listening to one of his recordings and, when she resisted, he raped her. Afterwards she ran from the house. Susan lived alone, but when she reached her flat she telephoned her sister and told her what had happened. The next day Susan went to work as usual, but in the evening she went for a drink with Tessa, a colleague whom she knew well, and told her about the rape. Tessa persuaded her to go to the police. Susan gave the police a written statement, and shortly afterwards Robert was arrested.

Robert was interviewed under caution in the presence of his solicitor. At first, he denied meeting Susan. Later during the interview he admitted that he had done so and that he had had sex with her, but he said that it had taken place with her consent. He wishes to give evidence in his own defence and to call Una, a friend, to say that for a period of several months earlier that year she had had a lesbian relationship with Susan. During that time Susan on several occasions had told her that she used to have sex with men, 'but only to make them suffer', and that on several occasions she had falsely alleged that she had been raped. Una has given a signed statement to this effect to Robert's solicitor, but Robert has heard that she is unlikely to be available to give evidence for him at his trial because a week after making the statement she took an overdose of drugs and has suffered brain damage as a result.

Robert also wishes to call Vernon to say that he was present at the party earlier in the evening of the alleged rape and had consensual sex with Susan, whom he had not previously met, in a cupboard under the stairs.

Discuss the evidential matters arising.

7. Timothy and Adrian are charged with robbery. The case for the prosecution is that they attacked Beatrice in a subway and snatched her bag after threatening her with an oriental dagger. Beatrice was seen by Cuthbert as she emerged, weeping, from the subway. He asked her what had happened and she replied, 'Two men threatened me and stole my handbag.' Cuthbert asked if she recognised them. She said that one man had a scarf partially concealing his face, but she thought she recognised him as Timothy, one of her neighbours. She said that she did not know the other one, but thought she would recognise him if she saw him again.

Beatrice reported the robbery to the police about an hour later. She was shown a number of photographs and picked out those of Timothy and Adrian. She subsequently identified both men on an identification parade, and they were arrested. When Timothy's house was lawfully searched by the police, they discovered an oriental dagger hanging on a wall. Beatrice subsequently identified this as 'very like' the one that had been used to threaten her. The police also discovered, hidden under floorboards in a bedroom, a meat cleaver and a revolver. When questioned under caution in the presence of his solicitor, Timothy said that the dagger had been inherited from an uncle and was used only as an ornament. He denied any knowledge of the objects found under the floor in the bedroom, saying that he had moved in only recently. He said that he had not taken part in the robbery of Beatrice.

When Adrian was questioned under caution in the presence of a solicitor, he denied taking part in the offence but said that on the day before Beatrice was robbed, Timothy had tried to persuade him to take part in a robbery, but that he had refused.

Timothy has no previous convictions. Adrian has a spent conviction for burglary. They intend to plead not guilty at their trial. They will be separately represented.

Discuss the evidential matters arising.

8. Kevin, a police detective, was investigating the disappearance of Lee, a police informer. Among other information, he received an anonymous letter saying that Mike and Nigel had been involved, and that a rumour was going round that Lee was dead. Kevin lawfully searched Mike's house. In a diary belonging to Mike he found a memo which read as follows: 'Disposal: 1. Fire. 2. River. 3. Acid. 4. Pet food factory.' He questioned Mike about his discovery, but was not satisfied by Mike's explanation that it was a note that he had made when he was working out a plot for a novel. Kevin arrested Mike on suspicion of murdering Lee. Mike was then taken to the police station, where he asked for a solicitor. Kevin refused his request, saying that he did not want others who might be involved in the offence to be alerted. Mike denied knowing anything about Lee, but Mike was an alcoholic who had not had a drink that day and was beginning to experience unpleasant withdrawal symptoms. Kevin, who realised this, said to Mike after about an hour of questioning, 'All right. You can think about things for a bit in a cell. We'll see if you are more cooperative a few hours from now.' Mike could not bear the thought of going without alcohol for much longer and said, 'I'll tell you if you'll give me bail. It was Nigel who killed Lee. I only got rid of the body because he threatened to harm my wife if I refused. I took the body to a disused quarry and hid it there.'

Lee's body was later found in the quarry. Kevin then arrested Nigel and took him to the police station for questioning. Nigel, on legal advice, refused to answer any questions, but a week later his solicitor sent Kevin a statement setting out Nigel's defence, which was to the effect that at the time when Lee was killed Nigel had been abroad with his partner, Olive. Olive has been investigated by the police, who have discovered that she worked for a time as a prostitute and has a conviction for fraud.

Discuss the evidential matters arising.

END OF PAPER