

UNIVERSITY OF LONDON

266 0002 ZA

277 0202 ZA

**LLB EXAMINATION**

for External Students

PART I EXAMINATION (Scheme A)

SECOND AND THIRD YEAR EXAMINATIONS (Scheme B)

GRADUATE ENTRY LEVEL II (Route A)

GRADUATE ENTRY SECOND AND 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

**Law of Trusts**

Wednesday 27 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.

© University of London 2009

UL09/852

1. 'The three certainties have lost nearly all their former significance. Courts are now willing to find a trust based on the slightest evidence of intention to benefit others, in relation to an unidentified selection of assets, and for a vaguely defined group of people.'

Discuss.

2. Ten years ago, Gilbert inherited 10,000 shares in Scallop Resources Co from his father's estate. The shares were then worth £50 each. He felt sorry for his mother, Bonnie, who had received title to the family home and some savings, but little else from his father's estate. Gilbert therefore transferred the shares to Ellen to hold on trust for Bonnie for life, remainder to himself. The trust instrument made no provision for any investment power on the part of the trustee.

The capital value of the shares increased dramatically, but the dividends were never very good. Bonnie complained to Ellen that the income from the trust was too low and asked her to sell all or some of the shares and invest the proceeds in assets producing higher income for her. However, Gilbert wrote to Ellen telling her not to sell, and she followed his instructions.

Advise Bonnie. How would your answer differ if a clause in the trust instrument provided that, 'No trustee shall be liable for any loss or damage to the fund or any part thereof or the income thereof unless such loss or damage be caused by the trustee's own fraud'?

3. 'There is no reason to treat knowing receipt any differently from dishonest assistance. A stranger should not be liable unless he or she wrongly interferes with the trust, and mere notice of a breach of trust is not a wrong.'

Discuss.

4. 'When a donor attempts but fails to complete a gift, there is no reason for a trust to arise unless it would be unconscionable for the donor to refuse to complete the gift.'

Discuss.

5. Are secret trusts express trusts or constructive trusts? Does it matter how we classify them?

6. Ferris desperately wanted his children to attend a highly rated state school which only admitted pupils living in its catchment area. Ferris's good friend, Cameron, lived in that area and Cameron's daughter, Sarah, had already finished school. To make it appear that Ferris and his family lived in the area, Cameron instructed the Chief Land Registrar to transfer title to his house to Ferris, which he did. Cameron continued to live in the house, but Ferris was able to use his proprietorship of the title to get his children into the school. When Sarah had a son of her own, Cameron decided to give his house to Sarah so that her son could attend the school when the time came. Cameron told Sarah of his arrangement with Ferris, gave her the keys to the house, and told her that the house was hers. He then telephoned Ferris to tell him what he had done. Cameron then moved to Australia and Sarah moved into the house. Five years later, she attempted to enrol her son in the school, but her application was refused as she was not the registered proprietor of title to the house. She thereupon asked Ferris to transfer title to her, but he has refused, since he still has two children who attend the school.

Advise Sarah. She does not want to bother Cameron, but will if that is necessary.

7. In 1957, a group of college friends formed the Treat Animals as People club (or TAP) to raise public awareness about the ethical treatment of animals and campaign for laws better protecting animals and recognising their rights. Each member paid £5 per year in club dues and they raised money for their activities through public appeals. TAP grew in popularity, and by 1977 it was receiving substantial donations from the public and had over 300 members, each paying £25 in annual membership dues. The members then bought a title to a house for £25,000, to be used as TAP's offices. Title was registered in the joint names of Frank and Hannah. Frank was then TAP's president and Hannah its treasurer.

Jim and Selena joined TAP in 1980, and in 1988 became its president and treasurer respectively. Frank and Hannah then left the club and transferred title to Jim and Selena. Jim and Selena moved into the house together and married each other. TAP became less active in the years that followed and its membership dwindled until last year, when Jim and Selena were its only members.

Jim has recently died. Title to the house is now worth £500,000. There are 70 former members of TAP who are still alive, including 28 people who ceased to be members before the title to the house was purchased.

Advise Selena as to who is entitled to the house.

8. Advise David, who is considering including the following dispositions in his will:
- (i) '£100,000 to fund research into the spread of HIV infection in Africa';
  - (ii) '£100,000 to encourage spiritual belief amongst people in hospices for the terminally ill';
  - (iii) '£100,000 to provide internet access for the unemployed';
  - (iv) '£100,000 to the National Synchronised Swimming Society [an unincorporated association] to organise swimming lessons for children outside London.' It appears possible that the Society may soon cease to exist.

END OF PAPER