

Legal Institutions

March 2013

Examiner's Comments

Overall this exam was well done, but the most common problem encountered by students was an over reliance on the notes they had with them – whether or not they were relevant to answer the question. A good answer required students to think about the question and apply their knowledge to answer it. All too often what was provided was reproduction – of notes, not tailored to address the issues raised by the question.

A worrying trend was a reliance on Wikipedia. There were several instances detected where students copied passages verbatim from Wikipedia into the exam booklet. This raises the following issues:

- Wikipedia is a blog – it is not an authoritative source. It may on occasion provide a very good guide to an issue, but this cannot be presumed, and Wikipedia should not be relied on.
- Students are not thinking about the material when they prepare their course notes – rather they are cutting and pasting lumps from other sources. This approach is not appropriate for tertiary study.
- While it is not plagiarism, as what was being copied were students' own notes, and presumably they had noted the sources for their own purposes – it goes perilously close. And it demonstrates a lack of care with respect to acknowledging the ideas of others.

If this trend continues it may be necessary to revisit the question of an open book exam, and move towards a closed book exam.

Question 1 was not attempted by many students, and not all who did had a clear understanding of the issue raised relating to the role of executive government and the doctrine of responsible government. By contrast, most students had no difficulty in identifying the issue of separation of powers raised in Question 2. However a number of students did not read the question carefully and answer all parts of the question – especially the request to support your answer by reference to any important historical milestones. The mention of Montesquieu was not a reference to an historical milestone – even though Wikipedia may suggest to the contrary. He was a French philosopher who wrote about what he saw in English society which had developed from their historical milestones which included all the constitutional experimentation which accompanied the English Civil War.

Question 3 was well done, although 3(c) was a good example of where a number of students simply provided a dump of their notes about tribunals and courts rather than thinking about and answering the question. The same issue arose in relation to Question 4 which a number of students attempted to answer by rewriting the Bar Rules, and not seeking to apply them, and the ideas behind them, to the lawyers in Kalamazoo. Disappointingly, a large number of students did not identify the difference between a State and a Territory in Question 5(a) and a number of students did not realise that 5(d) raised the same issues as in the *Williams case*.

Question 6 raised issues of statutory interpretation. It was of concern that a number of students attempted to answer 6(b) by referring to extrinsic material – when no such material was provided in the question.