

AUSTRALIAN CONSTITUTIONAL LAW – EXAMINER’S STATEMENT

March 2014

Overall the results were pleasing.

Question 1

Most students attempted this question which examined Constit. s51(xx). Part (A) was well answered by a consideration of *Adamson’s Case*. Part (B) showed weakness in understanding what would be a valid Constit 51(xx) law. The discussion needed was (a) *Concrete Pipes* (b) *Tasmanian Dam* and (c) *WorkChoices*.

Question 2

Most students did attempt this problem and had no difficulty in understanding the problem required consideration of Constit 51(xxix) and the case law explaining the implementation of treaty obligations. Most students understood the issues but many displayed a lack of any detailed knowledge of the case law that has to be used to consider whether the domestic law is valid. Most students were well able to consider *Melbourne Corp* as a potential restriction.

Question 3

Large numbers of students attempted this problem and were able to answer each part. It was pleasing to see how many coped with the jurisdictional issues in (b) and (c) and provided relevant case law - (b) *Watson Case* and (c) using case list under Constit s75(v). The nature of the power, judicial or non-judicial, examined in (a) did show a weakness by failing to apply the factors to the facts of the problem. The Tribunal was a non-judicial body and it was exercising non-judicial power. It was pleasing to see many students able to discuss privative clauses and also able to discuss the designated person rule.

Question 4

The majority of students did not select to answer this problem. Many who did attempt to answer it failed to identify that (a) was examining Commonwealth/State relations whilst (b) was examining the implied limitation of freedom of political discussion. Those students who identified the issues correctly performed well.

Question 5

Large numbers of students answered this problem which was examining Constit s109. Most had no difficulty in discussing relevant case law for “cover the field” and were well able to identify and discuss what field the Cth law covered. When discussing part (b) it was pleasing to see most students understood *Metwally*.

Question 6

This problem examined all issues in relation to Const. s51(ii) and in addition required consideration of Const. s55. The question was well answered.