

EXAMINATION FOR INTERNAL STUDENTS

For The Following Qualification:-

LL.B.

LL.B. Intermediate: Property I

COURSE CODE : LAWSINT2

DATE : 09-MAY-03

TIME : 10.00

TIME ALLOWED : 3 Hours 15 Minutes

PROPERTY I

Answer **FOUR** questions including at least one question from **PART A** and at least one question from **PART B**.

PART A

1. Carla and Greg decided to buy a flat and move in together when Carla became pregnant. The total cost of the flat was £50,000. They borrowed a £10,000 down payment from Greg's mother, Yetta. Yetta told Greg he didn't really have to pay the money back, but she insisted that Carla's name be kept off the title because she did not want Carla to benefit from her gift if the relationship broke down. Greg agreed to these terms but told Carla that he was just humouring his mother who would come around when she got to know Carla better. He told Carla that the flat would be "our home for our new family". As Carla works freelance and was unable to demonstrate sufficient proof of income to the bank because of her pregnancy, Greg took out a mortgage in the name of himself and his mother for the balance of £40,000 and title was registered in both Yetta and Greg's name. Greg paid all the instalments over the last 6 years out of his offshore account in order to avoid taxes. All household expenses were paid out of a local account into which Carla pays all her wages.

Last year, Yetta became unable to live alone. Carla still hoped to win her affections for the sake of her daughter, Lily, so was persuaded by Greg to use £10,000 from an inheritance she had received to build an extension on to the flat for Yetta to live in. On the night Yetta moved in, they had a celebratory dinner at which Greg told his mother to feel henceforth "as if our home, were your home". Unfortunately, soon after her arrival, Greg was killed in a car accident, leaving all his estate to little Lily. Yetta and Carla still do not get along. Yetta has moved into a retirement home and wants to sell the flat in order to pay her expenses and set aside some money in trust for Lily's education. Carla claims the flat is hers.

Advise Carla.

TURN OVER

2. Spencer's back garden was invaded last year by wild rodents, attracted to the kitchen waste dumped there and to the general lack of cleanliness. The rodents regularly foraged for food there, but continued to live in the countryside. Spencer took a liking to the visitors and encouraged them by putting out even more rubbish. This disgusted his neighbour Alex, who objected to the unpleasant smell of the creatures and to having to look over the rubbish heap. Despite Alex's protests, Spencer refused to clean up his garden, saying that the rodents' lifestyle was similar to his own since neither he nor they cared about what anyone else thought.

Alex, who is a pacifist, has recently developed an interest in attempting to jam military radio communications using equipment that emits strong radio waves. This interferes with Spencer's ability to receive television signals in his home. The waves are also affecting the rodents, which are particularly sensitive to them, and causing them to stay away from Spencer's garden. Spencer's complaints have fallen on deaf ears.

- (a) Advise Alex and Spencer, ignoring any criminal law issues; **and**
- (b) Is the way the law deals with these issues efficient?

3. Sophie lived alongside the river Cherwell and was a rowing enthusiast. She cycled to work using the road on the other side of the river from her cottage, but it took half an hour simply to get to the road. Being able to cross the river would cut her journey time significantly, but there was no accessible bridge over the river. So she entered into a written agreement with Oxfordshire County Council, which controls the river, that in consideration of an annual payment of £500, she would have the exclusive right to row across a particular stretch of the river at any time.

Sophie's boyfriend Lee, who owned a farm close by, reared free-range geese. At around the time that Sophie acquired her right to row across the river, Lee – whose gaggle had recently expanded and now consisted of 200 birds – entered into an agreement with Oxfordshire County Council whereby the Council, in consideration of £1000 per annum, allowed up to 200 geese to roam over and feed in Whiteacre, a disused piece of land owned by it next to his farm.

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Recently, Lee decided to sell this right to Johnny, a local farmer who also owns several hundred geese. Lee moved his own gaggle to Blackacre, another piece of Council land that has been used by people from the local village as a picnic spot for many years.

The villagers object to having to share Blackacre with Lee's geese, to their noise and their droppings. The Council objects to Lee's purported transfer of his rights concerning Whiteacre to Johnny. In the meanwhile, Sophie has sold her cottage to Kate, who wishes to know if she has also acquired the right to row across the river.

Advise the parties.

4. Maria, a well known journalist who specialised in interviewing celebrities and who lived in Victoria Square, died last year leaving her entire estate, valued at over £2 million, to her trustees, Tommy and Tuppence, to hold on the following terms:
- i. To hold £1 million on trust to pay the income for the next twenty years "to such one or more of my fellow writers as my trustees shall, in their absolute discretion think fit".
 - ii. To "make cash payments of £1,000 each to celebrities who are unfairly pilloried by the tabloid press in the twenty years after my death".
 - iii. To hold the residue of my estate "on trust for my relatives in equal shares".

Advise Tommy and Tuppence as to the validity of these provisions.

TURN OVER

PART B

5. "The extinguishment of title in land based on adverse possession is founded on philosophical and economic arguments which are no longer persuasive in the 21st century."

Discuss.

6. "The traditions and ways of life of the aboriginal communities in *Millirpum* and *Mabo* did not admit of anything akin to property. To deny this would simply be to misunderstand the common law notion of property."

Discuss with reference to Australian, English, and Canadian case law.

7. What is the tragedy of the commons, and why is it supposed to arise? Can you prevent this tragedy arising in respect of a particular resource by abolishing *private* property altogether in the use of that resource?

8. "Thieves and trespassers who take other people's goods cannot expect the law to protect them".

Discuss.

9. "If you want to ensure that money will be used only for a specific purpose which is not charitable, a trust is not an appropriate mechanism to use".

Discuss.

END OF PAPER