

**UNIVERSITY COLLEGE LONDON**

University of London

**EXAMINATION FOR INTERNAL STUDENTS**

For The Following Qualification:--

*LL.B.*

**LL.B. Intermediate: Property I**

**COURSE CODE : LAWSINT2**

**DATE : 10-MAY-05**

**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. Elizabeth is the owner of Blackacre and Whiteacre, two adjoining plots of land. On Whiteacre is a small dwelling-house, garden and a small shed. Recently, for a consideration of £10,000, Elizabeth granted Charles, who lives some two miles away but who loves the scenery around Whiteacre, the right to hold picnics with his family and friends in the garden on Whiteacre.

A short while later, she sold Whiteacre to Tannhauser. In the sale agreement, Elizabeth granted Tannhauser the right to hold picnics in the garden located on Blackacre. In the same agreement, Tannhauser granted her the right to store junk in the shed located on Whiteacre, and right to take fruit from the trees in the garden located on Whiteacre.

Advise Tannhauser on each of the following points:

- (a) Tannhauser objects to Charles and his family and friends using the garden on Whiteacre for picnics, and would like to prevent them from doing so.
- (b) Elizabeth has recently entered into an agreement with the residents of a nearby village which purports to transfer her right to take the fruit from the garden located on Whiteacre to any five residents of the village as the villagers may from time to time nominate.
- (c) Elizabeth has now sold Blackacre to Charles. Tannhauser is worried about whether Charles has the right to prevent him from holding picnics on the garden located on Blackacre.
- (d) Charles has been storing so much junk in the shed located on Whiteacre that Tannhauser can barely open the shed door. He wonders whether he has the right to prevent Charles from using the shed. If he cannot, Tannhauser would at least like to have some space in the shed to meet some of his own storage needs.

**TURN OVER**

2. Alice, who had recently become homeless, moves into an empty house and installs new locks. The next day, she invites her friend Bob for a visit and encourages him to look around what she tells him is her new home. She then goes out to do some shopping.

Answer **each** of the following questions:

- (a) When Alice returns, she finds that Bob has changed the locks and refuses to let her in. Advise Alice.
- (b) While in the house, Bob has found a necklace concealed from view in the bedroom. He has also noticed a secret compartment in the bedroom wall, and having broken into it, discovers a bracelet. Both the necklace and the bracelet appear to have been left undisturbed for a considerable period of time. Alice demands that both items be handed over to her. Advise Bob as to whether he can keep either of the items.
- (c) Alice and Bob become friends again and remain together in the house for ten years. They then invite Camilla, a mutual acquaintance, to move in with them. Bob falls ill and dies. Distressed, Alice leaves the house, never to return. Camilla remains in the house for another two years. Advise Camilla as to whether she can take any steps to prevent Xavier, the registered proprietor of the house, from evicting her. How, if at all, would your answer differ depending on whether or not any relevant provisions of the Land Registration Act 2002 are in force?

**CONTINUED**

3. Lewis and Carroll decided to buy a house and move in together. They found a house which cost £200,000. Carroll paid £100,000 of this from her own savings and borrowed £50,000 from MadMortgages.com Ltd by offering it a mortgage over the house. The remaining £50,000 came from Hydee, Carroll's mother, who told her and Lewis that it was "for your new life together". Lewis was unemployed at the time, so they agreed that Carroll would make the mortgage repayments.

At the time that Lewis and Carroll moved into the new house, they agreed with each other that from then on, they would "share everything equally". Taking this to be true, Lewis spent £10,000 – which constituted a significant part of his savings – on repairing and redecorating the house.

Lewis and Carroll then fell out. Carroll left the house and stopped making the mortgage repayments. By that time, half of the money due to MadMortgages.com had been paid off. Lewis, who was still unemployed, invited his old friend Bertie to live in the house with him. Bertie, a successful stockbroker, was so touched by this that he agreed with Lewis that he would make the mortgage payments from then on. From time to time, however, Bertie would become so busy at work that he would forget to send the monthly cheque to MadMortgages.com. Lewis would then make the payment from the remainder of his savings. In this way, Bertie paid all but £5,000 of the outstanding mortgage loan, and Lewis paid the rest.

Lewis and Bertie have now had an argument, and Bertie has moved out. Advise Lewis, Carroll, Hydee and Bertie on what rights, if any, they have in the house.

**TURN OVER**

4. Answer **all** of the parts of the following question:

Bill, a billionaire, controls a company called Windowsoft Ltd. He wishes to benefit the employees of the company. He therefore buys a plot of land and transfers legal title to it to trustees, “to be held on trust for use as a sports field by the current and former employees of Windowsoft Ltd. for 20 years, after which time it will be sold and its proceeds of sale given to the charity Oxfam”.

Bill also provided £1 million to trustees “for the sole and only purpose of providing pensions to the spouses of deceased former employees of Windowsoft Ltd. for 20 years, after which time any surplus should be given to Oxfam”.

- (a) Advise as to the validity of **both** of these trusts.
- (b) What would happen to the residue of the £1 million if, after the trust is set up, a law is passed making private pension schemes unlawful?
- (c) A year ago, Windowsoft encountered serious financial problems. Bill transferred £1 million into Windowsoft’s bank account, informing the bank that the money was intended to be used “solely for the payment of Windowsoft’s creditors in order to prevent Windowsoft going into insolvent liquidation”.

Windowsoft has recently become insolvent and its bank wishes to retain the surplus in its account. Advise as to who is entitled to this surplus.

**CONTINUED**

## PART B

5. Does Locke's Labour Theory provide an adequate defence of private property? Would this defence work in the context of the rights claimed by the various Australian aboriginal groups about which you have read?
6. Critically assess the arguments for the assertion that private ownership is economically more efficient than either state ownership or communal ownership.
7. "The creation of novel property rights is fraught with difficulty. Property rights are convenient for those who hold them but very inconvenient for everyone else."

Discuss.

8. "The laws governing nuisance, restrictive covenants, and planning requirements are meant to complement each other. In fact, they do not adequately deal with the problems faced by a modern society, and serve simply to create confusion."

Discuss.

9. What form of restrictions may justifiably be imposed on one's right to dispose of one's property?

**END OF PAPER**