UNIVERSITY COLLEGE LONDON

University of London

EXAMINATION FOR INTERNAL STUDENTS

For the following qualifications:-

LL.B.   Affil - Cat 1

LL.B. Intermediate: Property I (Resit Paper)

COURSE CODE	:	**LAWSINT2**
DATE	:	**01-SEP-04**
TIME	:	**10.00**
TIME ALLOWED	:	**3 hours 15 minutes**

TURN OVER

PROPERTY I

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

PART A

1. Sonia is tired of city living and purchases the fee simple to Whirlowdale Mansion (including the grounds in which it stands) in Derbyshire. To ensure that she continues to enjoy unrestricted views across the countryside, Sonia pays her neighbour Rachel £2000 in return for a promise that Rachel will not build on her land for as long as Sonia lives in the mansion. Rachel also promises to repaint the fence separating her land from Sonia's, and to keep it in good repair in the future.

    Rachel is a sheep farmer. Following a hot and dry summer, the grass on Rachel's land is looking yellow and sparse, so she decides to leave her field to pasture for a year. Sonia thinks that sheep look "rustic" and so allows Rachel to graze as many as she likes in the grounds of Whirlowdale Mansion.

    Within a year Rachel decides that she would prefer to grow crops than graze sheep. She goes to a local country fair where she sells her sheep to Richard. Since Richard owns a flat in Chesterfield and has no field where he can graze the sheep, Rachel also sells him the grazing right over Whirlowdale Mansion.

    There is a small caretaker's cottage on the edge of Sonia's land, which she leases to Gemma, a young struggling artist specialising in landscape painting. There is no garden to the caretaker's cottage where Gemma could sit and paint, so Sonia grants her the right to use the grounds of Whirlowdale Mansion instead. In return, Gemma promises to provide a series of paintings for the drawing room of Sonia's house.

    After five years of living in the country, Sonia is finding the country life increasingly boring and wants to sell Whirlowdale Mansion.

    Advise Sonia, Richard and Gemma.

TURN OVER

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2. Marvin was keen to persuade his family and friends to take a more active interest in computers. He lent his old friend Gavin £10,000 to buy himself a computer and pay the fee to enrol on a specialist training course. He then gave £1m to his trustees, Tom and Tessa, directing them to buy, equip and run an internet café "for the exclusive use of my family and friends, to provide them with free internet facilities". He also gave Tom and Tessa £10,000 to hold on trust to "use any part of the capital or income for the next twenty years to make grants for computing purposes to such of my children and grandchildren as they shall in their absolute discretion think fit, and at the end of the twenty year period to divide whatever is left between my eldest two children in equal shares."

Marvin now regrets his generosity and wants all his money back. He has discovered that Gavin, who died suddenly leaving all his property to a charity for the preservation of books in the printed form, paid the £10,000 into a separate bank account, spent £600 out of it on an old second hand computer but never bothered to enrol on the training course. Marvin has also discovered that no-one uses the internet café, and that Tom and Tessa have never paid any money out of the trust fund. This is because Marvin's only children, Cathy (aged 25) and Shirley (aged 30) have no interest in computers. Cathy and Shirley have also told Tom and Tessa that they have no intention of having children, and have demanded that Tom and Tessa should now pay all the money in the trust fund over to them in equal shares.

Advise Marvin.

3. Axelia and her nine brothers reside at the edge of a very isolated forest. They earn their living by trapping the mink that live all over the forest and selling their fur in the village several miles away. Axelia, who has always been the cleverest of the siblings, has recently noticed that, while the ten of them are currently trapping as many mink as they like from the forest, the mink population seems to be declining. She wishes to find a way of preserving this population, so that she and her brothers could continue making their living in this way over the coming decades.

Explain why the mink population might be on the decline. Suggest any two strategies, either of which Axelia and her brothers might adopt, to prevent too rapid a decline in the mink population. Describe the problems likely to be encountered in pursuing the two strategies and discuss their likely advantages and disadvantages.

4.   Answer (a) **AND** (b) **AND** (c) of the following question.

Allan has recently moved into a cottage in the country that he has acquired on a ten year lease from a Mr. Raven. Allan wishes to learn how to plant vegetables. He invites his neighbour Edgar, a renowned vegetable farmer, to visit him one day to demonstrate how to prepare the soil and plant seeds. As Edgar is digging in the land, he unearths an exquisite gold bracelet. Allan demands the bracelet but Edgar refuses. The owner of the bracelet is untraceable.

(a) Ignoring the owner, who has the best title to the bracelet?

While Edgar and Allan are arguing over the bracelet, Allan's butler Poe is mending one of the exterior walls of the cottage. The lease prohibits such repairs without Mr. Raven's permission, and no such permission has been given. Poe discovers a secret chamber in the wall. He opens this to discover a Ming vase. The owner of the vase is untraceable.

(b) Ignoring the owner, who has the best title to the vase?

(c) How, if at all, would your answer change if Poe was not Allan's butler but his friend, and Allan had asked him to repair the wall as a favour?

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PART B

5. "The decision of the House of Lords in *Hunter v Canary Wharf Ltd* [1997] AC 655 provides a fair and efficient resolution of the dispute between the parties, and provides much needed guidance about the law of nuisance."

   Discuss.

6. "The conditions that must be satisfied for a right to qualify as an easement are unnecessarily restrictive: landowners should be free to grant whatever rights they like over their own land."

   Discuss.

7. Assess the significance of the decision of the High Court of Australia in *Mabo v Queensland (No. 2)* [1992] 66 ALJ 408 in the light of English, Canadian and Australian authorities.

8. "Whatever theory justifies the existence of private property also provides justification for extinguishing the registered owner's title after a period of adverse possession of his land."

   Discuss with reference to the changes introduced to the law of adverse possession by the Land Registration Act 2002.

9. "The formalities required to create and transfer various types of property interests are useless, cumbersome and outdated."

   Discuss.

END OF PAPER