

UNIVERSITY COLLEGE LONDON

University of London

EXAMINATION FOR INTERNAL STUDENTS

For The Following Qualification:–

B.A.

Laws C10: Property I

COURSE CODE : LAWSC010

UNIT VALUE : 1.00

DATE : 11-MAY-04

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. The state of Upheavia, which had undergone a civil war for several years and was thus without an effective government, has recently been annexed by the United States of Africa (USAF), whose legal system is identical to that of England in all material respects. Anxious to benefit from this acquisition, the USAF government enters into an agreement with the multinational company Digup Inc., granting Digup a hundred year concession to search for oil in the Western Province of Upheavia.

The native inhabitants of the Western Province are obliged by their customary rules to conduct a ritual dance dedicated to the goddess Obunga around a certain natural spring associated with the goddess. Digup Inc. is now proposing to block access to the Obunga spring for several decades while it prospects for oil in the vicinity.

It is also customary for all the young men of the Western Province to spend the first month of the winter season hunting the wild boar that live in the forests dotted across the Province. The native inhabitants are worried that Digup Inc.'s plans to set up a residential colony for its expatriate workers would destroy a large portion of these forests.

Digup Inc. has identified huge oil reserves under a 10,000 acre piece of land in the Western Province. The local tribes live a nomadic life on this land, hunting and gathering over it and worshipping the spirits of their ancestors at specific sites located there. If Digup Inc. were to commence drilling for oil, this way of life would become impossible to sustain.

Advise the native inhabitants of the Western Province.

TURN OVER

2. Jeremy owns the fee simple in Blackacre but allows local residents to use the land for recreational purposes. During the day, he employs John to sit in a hut in the grounds and supervise the residents' activities. There are numerous signs around Blackacre directing the residents to the hut if they have any queries or problems. At night, John locks both gates in the fence surrounding Blackacre.

So that John can start work early every morning, Jeremy grants him a lease in a house at the bottom of Blackacre. One day while sweeping the floor, John notices a coin in the crack between the floorboards. The coin looks very old. John is interested in local history and would like to keep it.

One wet and windy day, Lauren, a local resident, is walking through Blackacre when she slips in some mud and falls to the ground. Before standing up, she notices an object that she hadn't seen before. The object is covered in mud, but when she picks it up and wipes it she discovers that it is a diamond ring. Lauren puts the ring in her pocket and decides to keep it.

That night, Alexander (a mischievous local youth) climbs over the fence. He finds a bracelet on the floor. Alexander picks up the bracelet and decides to give it to his girlfriend for her birthday.

Advise John, Lauren and Alexander of their rights, if any, to the objects they have found.

CONTINUED

3. 'Angelo's Plum Blossom Academy' is a martial arts centre in the small village of Shaolin-on-Sea, near Penzance. For over fifty years, the Academy has occupied a plot of land near the centre of the village consisting of a small sports hall and a large playing field. Every Sunday during the summer months, Angelo's students practise their skills with lethally sharp ninja throwing stars in the field, as the sports hall is too small to allow for safe practice of this kind. In 2002, houses were built around the sides of the playing field, and Mr and Mrs Blott, former London solicitors, purchased and moved into a house on the northern side shortly after building was completed. They were attracted to the property because of its pleasing southerly aspect and idyllic village setting.

Throughout the summer, ninja throwing stars rain down into the Blotts' back garden, causing damage to the exotic plants they have imported from overseas, but causing no harm to the plants native to this country. The Blotts also find that the back garden is unusable on weekends during the summer months due to the danger of being struck by the deadly stars.

Recently, Angelo has discovered a secret Shaolin ceremony that, if performed during the Year of the Monkey, is said to grant martial arts practitioners special powers. However, the ceremony requires the use of several thousand gallons of water, and to provide this, Angelo intends to sink a well in the land occupied by the Academy. The Blotts are worried that this will cause subsidence and thus damage their home. Angelo has also started attracting wild monkeys on to the Academy's land with a view to training them to participate in the ceremony. The Blotts are offended by the noise and smell of the monkeys, and retaliate by setting off firecrackers in their back garden during Angelo's attempts to train them.

Advise the Blotts and Angelo.

TURN OVER

4. Angie and Bridget wanted to set up a hair and beauty salon but were having difficulties persuading a bank to lend them the money to buy the salon premises. Eventually, Venturesome Finance Bank agreed to lend £200,000 of the £250,000 purchase price of the salon, provided the property was put in the joint names of Angie and her father Jeremy and mortgaged to Venturesome to secure repayment of the loan. Bridget's friend Moira provided the remaining £50,000, saying "I'm sure it will prove to be a good investment". The salon (which they re-christened "Cutbacks") was duly bought in the names of Angie and Jeremy and mortgaged to Venturesome, and Angie and Bridget assured Jeremy that they would be solely responsible for paying the mortgage instalments. Angie and Bridget spent several months carrying out extensive improvements to the premises and fitting them out as a high class salon before they were able to open for business: they had to do all this work themselves (with some help from Moira and other friends) because they had no money to employ builders.

During the first year Angie and Bridget paid all the monthly mortgage instalments (apart from three months' payments which Jeremy had to pay because Angie and Bridget could not raise the money). However, Bridget then decided to take time off to travel round the world and, two years later, has still not returned. During her absence Angie has paid all the outgoings herself, including the mortgage instalments.

CafeExpress Ltd has now offered to buy the salon premises (which they plan to convert into a coffee shop) for £500,000. Angie wants to accept the offer and plans to use the proceeds of sale to buy herself bigger and better premises. However, Bridget, Jeremy and Moira all claim to be entitled to share in the proceeds of sale.

Advise Angie.

CONTINUED

PART B

5. "The Courts should be flexible in allowing the development of new property interests. Fairness is, and should be, the primary objective."

Discuss with reference to case law.

6. Explain Locke's theory for the justification of private property rights, and consider whether it provides an adequate model for thinking about property in a complex modern society.

7. "The beneficiary principle can be interpreted in two ways. One of these interpretations is orthodox and wrong. The other is heretical but correctly characterises the present law."

Discuss.

8. Outline the key differences between private ownership, state ownership and communal ownership, and consider the reasons a state might have for attempting to maximise private ownership. Should a state recognise private ownership as the *only* form of ownership?

9. "An agreement purporting to create a lease is the definitive expression of the parties' intentions and should be given effect to in law."

Discuss.

END OF PAPER