

**UNIVERSITY COLLEGE LONDON**

University of London

**EXAMINATION FOR INTERNAL STUDENTS**

For The Following Qualification:–

**B.A.**

**Laws C11: Property II**

**COURSE CODE : LAWSC011**

**UNIT VALUE : 1.00**

**DATE : 05–MAY–05**

**TIME : 10.00**

**TIME ALLOWED : 3 Hours 15 Minutes**

## **PROPERTY II**

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

### **PART A**

1. “The proliferation of different types of security interests in English law serves no useful purpose and merely results in confusion. The law would be best served by the abolition of all types of security interest except the charge.”

Discuss.

2. Answer **EITHER** a) **OR** b):

- (a) “The Land Registration Act 2002 significantly improves the law in relation to adverse possession, by removing unfortunate illogicalities.”

Discuss.

- OR** (b) “It used to be said that the presence of overriding interests in the system of registered title constituted a gaping hole in the 1925 legislative regime. With the passing of the Land Registration Act 2002, this hole has virtually disappeared.”

Discuss, indicating whether this should be regarded as an improvement in the law.

3. In what ways does bailment of a chattel differ from a lease of land? Does a bailee nevertheless have a proprietary interest in the chattel?
4. “Whatever the practical effects of leases and licences might be, there is no longer any clear conceptual means of drawing a distinction between them.”

Do you agree?

**TURN OVER**

## **PART B**

5. In 1955, some law students at UCL joined together to form the UCL Society for the Admiration of Property Law. The purpose of the Society was to enhance the appreciation of the simplicity and elegance of English Property law principles. Only current UCL students could be 'full members' of the Society and had to pay an annual membership fee of £100. Those wishing to remain members after leaving UCL were offered the status of 'associate member' and were required to pay an annual fee of £200. All members, full and associate, were entitled to vote to elect the Society's governing council.

The Society was active in organising social events, where readings from the texts of great Property lawyers would be accompanied by raffles, sweepstakes and games. These events were very popular and enhanced the Society's funds.

In 1998, Anton, one of the Society's members, graduated from UCL with Firsts in both Property I and II. An admirer of the way Property law was taught at UCL, he donated £50,000 "towards the acquisition of suitable premises for the Society's offices", but subject to the condition that "the Society would retain its independent status, and would never become affiliated with the KCL Association of Property Enthusiasts".

In 2000, Becky, a long-time associate member of the Society, passed away, leaving the Society £10,000 in her will.

Cathy, a UCL graduate student who had completed her undergraduate studies at KCL, has recently tabled a motion at the Society's general meeting, proposing that the Society seek affiliation with the KCL Association of Property Enthusiasts. Under the rules of the KCL Association of Property Enthusiasts, the funds of the Society would have to be transferred to the Association's Treasurer in the event of such an affiliation, and could then only be used according to the Association's rules.

The proposed affiliation has caused great controversy amongst the Society's members. Many of them would rather wind up the Society than accept it. Other members support the affiliation, but only if it would not affect the Society's ability to deal with its own funds.

Advise the Society's members as to the destination of the Society's funds:

- (i) in the event that the Society is affiliated with the KCL Association of Property Enthusiasts; and
- (ii) in the event that the Society is wound up.

**CONTINUED**

6. On 1 March 2004, Sue grants a monthly periodic tenancy of her dwelling house at 6 Egdon Heath to Jude, a local stonemason. Upon moving in, Jude decides to brighten up the entrance hall by mounting a classical Japanese tapestry, which he affixes to the wall by specially made hanging brackets, and by bolting a heavy marble bust of Jeremy Bentham to the top of one of the ornamental plinths which grace the fireplace in the living room. Some weeks later, he replaces the ordinary light fittings in the kitchen with slimline strip lights, and replaces the old cupboard doors with expensive new maple ones. In addition, he purchases a built-in dishwasher under a hire-purchase agreement which he then has fitted in a gap between two existing kitchen units. Finally, Jude buys two garden sheds, which he places on specially placed flagstones that have been cemented into position at the rear of the property in order to provide a stable base for the sheds, and a bird-table which he attaches to the trunk of an old elm tree at the foot of the garden.

On 16 November, Sue gives Jude two months' notice to quit, though in fact Jude does not vacate the property until April 2005. When Jude does move out, he takes the tapestry and the bust of Jeremy Bentham with him, as well as the kitchen lights and cupboard doors. He returns a few days later with a lorry, demanding to take the sheds and the bird table from the garden. Sue refuses, and further complains that the removal of the bust has damaged one of the plinths which flank the fireplace. Soon afterwards, Mr Phillotson, of Phillelectrical Superstores Ltd., turns up saying that Jude has defaulted on the two latest payments in respect of the dishwasher, and he intends to enter the property to recover his goods. Both Jude and Phillotson are now threatening legal action.

Advise Sue.

**TURN OVER**

7. Maxwell runs Maxwell Hardware Stores Ltd., a local DIY company. He has recently contracted with Henry, a wholesaler, for the supply of 40 tins of industrial widgets which Maxwell intends to sell in his shop. Although Maxwell personally selected the widgets and asked that the tins be specially marked as reserved for him, it is Henry's usual practice to store all reserved stock of a given kind in one place, on the understanding that upon delivery each customer receives whichever tins happen to be most accessible at that time. Maxwell's tins are placed in a reserve pile of 150 tins of widgets, which include 60 tins reserved to Sherman and a further 50 to Ted, Maxwell's competitors. On the appointed date, Maxwell arrives at Henry's warehouse to find that there has been a fire, and that 70 tins of widgets are damaged beyond use. Moreover, the fire has severely scorched the tins, erasing all labels and markings. Maxwell has also contracted with Jones Ltd., a steel company, for the sale of 10 tubes of 'liquid effluvia' (LiE), a type of glue used in the manufacture of industrial strength solder. The sale is subject to a hire-purchase agreement, the terms of which state that title to the LiE remains vested in Maxwell until all monies have been paid. Jones Ltd. produce the solder, which they use in the manufacture of printed circuit boards, but go into liquidation before all payments to Maxwell are made.

A few weeks later, Sommer, a friend of Maxwell, asks if she can borrow his van for a month or so while her new car is being imported from Japan. Maxwell is happy to agree, but is surprised when, six weeks later, Sommer returns the van complete with a brand new engine, two new wheels, tinted windows and a fitted sound system. Sommer explains that the van broke down shortly after she began driving it, due to a failure of the old engine, and that two of the old wheel rims were cracked and therefore dangerous. She further tells him that she fitted the sound system and windows 'because the van was too boring to drive', and she makes it clear that she expects Maxwell to pay for all of these items.

Advise Maxwell.

**CONTINUED**

8. Dodgy Dave is the trustee of two trusts, 'Trust A' and 'Trust B', the proceeds of which he intends to pay into separate bank accounts, at the NatEast Building Society and Red Horse Bank respectively. The NatEast account has a credit balance of £100,000 belonging to Trust A, but Dave mistakenly pays into this account a further £50,000 belonging to Trust B. Seeing what he thinks is a favourable investment opportunity, Dave then withdraws £100,000 from this account and uses this to purchase shares in Risky Rick's Holdings Ltd., which shortly afterwards goes into liquidation with no assets. In an attempt to retrieve the situation, he withdraws the balance of £50,000 in the account, using this to buy shares in Safeguard Ltd., the shares shortly thereafter reaching their current value of £75,000.

In the Red Horse account, there is a credit balance of £50,000 belonging to Trust B. Dave, forgetting that the money in this account belonged to a trust, pays in £50,000 of his own money, later withdrawing £10,000 to pay for a holiday in the USA. Next, he withdraws £40,000 to buy four paintings by an up-and-coming artist, and finally he withdraws a further £10,000 which he gave to his girlfriend so that she could buy a new ball gown.

Dave's actions have now become known to the beneficiaries of both Trusts, and they are in the process of bringing claims against him.

Advise Dave.

**END OF PAPER**