

UNIVERSITY COLLEGE LONDON

University of London

EXAMINATION FOR INTERNAL STUDENTS

For The Following Qualification:—

LL.B.

LL.B. Intermediate: Public Law I

COURSE CODE : LAWS1003

DATE : 06-MAY-05

TIME : 14.30

TIME ALLOWED : 2 Hours 30 Minutes

PUBLIC LAW I

Answer **THREE** questions.

1. "The Second Chamber of the UK Parliament should be entirely elected."

Discuss.

2. "It is not difficult to show that the rule of law is a misleading concept with very limited practical effect. It may guide the adoption of fair procedures but does not dictate any substantive outcomes. It encourages judges wrongly to restrain the grant to officials of necessary discretionary power."

Discuss this statement, with reference to any relevant case law.

3. Alex and Brian are members of the Gunners, a gang of violent supporters of Gunnersbury Football Club. The Gunners have frequently in the past been involved in violent clashes (colloquially known as "rumbles") with supporters of rival football clubs, and they have a reputation for being armed with flick-knives, knuckle-dusters and bicycle chains. Members of the Gunners wear a distinctive and easily identifiable tattoo of a gun on their forehead so that they can instantly recognise fellow members in an affray.

Police Constables Dumbledore and Eastwitch observe Alex and Brian walking along the street, displaying the Gunners tattoo, late one afternoon following a football match at the Gunnersbury stadium, at which there have been several violent clashes between the Gunners and the supporters of the visiting team. The constables accost Alex and Brian and enquire whether they were involved in the "rumbles" at the match that afternoon. Alex replies, "Sod off, porkies", in response to which the constables, angered by Alex's reply, decide to search Alex and Brian for offensive weapons. Alex and Brian violently resist the search and are forcibly overcome and arrested for assaulting police constables in the execution of their duty. Alex and Brian are then searched and the constables find a small quantity of cocaine in Alex's pocket and a large sum of cash in Brian's wallet, both of which items the constables seize. No weapons of any description are found during the search.

Advise Alex and Brian.

TURN OVER

4. Police Constables Ed and Fred lawfully arrest Gary and Harry for possession of stolen property late one evening in an area noted for its burglaries.

The constables take Gary and Harry to their apartment which the constables enter by force and search. They find a large quantity of cocaine hidden in the toilet cistern and a very large sum of cash hidden beneath the floorboards. The constables take Gary and Harry to the police station at which they are stationed and question them all night. The constables refuse to let Gary or Harry contact a solicitor or even have a person informed of their detention. They inform the suspects that they will not get bail unless they cooperate with the police. One of the constables' reasons for arresting Gary and Harry and thereafter proceeding to search and seize their property, and to treat them harshly in the police station, is that Gary and Harry are homosexual. Ed and Fred dislike homosexuals.

Gary eventually confesses to being a supplier of cocaine. Harry confesses that the cash is the proceeds of social security fraud.

Advise Gary and Harry.

5. "There is nothing in the ECA [European Communities Act 1972] which allows the Court of Justice, or any other institutions of the EU, to touch or qualify the conditions of Parliament's legislative supremacy in the United Kingdom." Lord Justice Laws in *Thoburn v Sunderland City Council* (2002).

Do you agree with this statement? Why has the European Court of Justice adopted a different view of the effect of EC membership on the sovereignty of member states?

6. Why is the doctrine of direct effect of such importance to the development of European Community law? What rationales are offered by the European Court of Justice for expansion of, and limits to, this doctrine?

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