

COUNCIL OF LEGAL EDUCATION
ENTRANCE EXAMINATION

July 7, 2010

Instructions to Candidates:

- (a) Duration: 3 Hours

- (b) Answer **ONE** question from each subject area.

- (c) **EACH QUESTION MUST BE ANSWERED ON A SEPARATE ANSWER BOOKLET WHICH SHOULD BEAR THE NAME OF THE SUBJECT AREA, THE QUESTION NUMBER AND YOUR ID NUMBER.**

- (d) It is not necessary to transcribe the questions you attempt.

- (e) Please ensure that you **use only your ID number** to identify each answer booklet.

PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.

CONTRACT

7. David made the following promises:
- (a) To give his son Adam \$10,000 if he abandons his career as a disc jockey and becomes a lawyer.
 - (b) To pay his secretary Betsy \$3,000 for having willingly given up her lunch hour when necessary during the previous 3 months.
 - (c) To pay \$200 to Carl, who has a contract with a local newspaper in the area if he delivers the paper by 7:30 a.m. every morning and puts it in the mail box without tearing it.
 - (d) To give his tool kit to Ernest, a neighbour, if Ernest collects it from the garden shed.

Advise David if and to what extent, each of these promises is legally binding.

8. In what, if any, circumstances can an offeree accept by silence? Give reasons.

CRIMINAL LAW

9. Rita and Paul were married. While living together they had two children Jan and Jane. However, after three years they separated when Paul left Rita to live with his new love, Penelope.

One day, Paul collected the children from Rita's home and took them to the beach. However, on his return to Rita's home to drop off the children, he had Penelope in his car with him. This made Rita very upset. A verbal confrontation took place. Penelope left the vehicle intending to speak to Rita. On seeing Penelope leave the car, Rita took up a stone from the ground and flung it at Penelope, who ducked. The stone hit Paul in the head knocking him unconscious.

Paul suffered from a rare skull disease that made his skull softer than normal and made him susceptible to severe head injuries. Paul had never told anyone about his disease.

The police have arrested Rita and charged her with wounding. She now contacts you from the police station and asks that you represent her. She informs you of all that transpired and says that she did not intend to hit Paul but rather that she meant to hit Penelope. She also says that although she had been married to Paul for three years, she did not know that he suffered from any sort of skull disease.

Discuss the legal principles involved in this matter.

10. With the use of decided cases discuss each of the following defences:
- (a) insanity;
 - (b) automatism; and
 - (c) intoxication.
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LAW OF TORT

1. **Answer both (a) and (b)**

(a) “The Law of Nuisance and the Rule in *Rylands v Fletcher* might in most cases be invoked indifferently (Lord Simonds).”

Discuss.

(b) Sid has recently opened a rest home for the elderly in an area which is primarily residential. On the other side of the street is a laundry owned by Charles. Sid complains:

(i) of constant noise from the machines and the smell of chemicals from the laundry;

(ii) that Charles’ delivery vehicles are parked in front of Sid’s driveway and obstruct access to his garage;

(iii) that since the opening of the rest home, Charles has expanded his business such that the noise, smell and obstruction continue beyond normal working hours and often until 12 midnight including weekends.

Advise Sid.

2. George was a policyholder with Sage Insurance Company Limited. At a party, George asked the manager of Sage whether Sage’s sister company, Good Life Insurance Company, was a safe company into which George’s savings might be invested. The manager replied, “Don’t worry. Safe as houses. I’ve seen the books and invested myself.”

On a visit to Good Life, George asked Good Life's accountant the same question. The accountant told George that he was rushing out to lunch but in answer to George's question, he replied, "Sure, invest. Why not?"

Accordingly, George invested \$1,000,000 in Good Life Insurance Company. Two months later, Good Life Insurance Company 'crashed' and ceased to trade.

Advise George.

EQUITY

3. What equitable remedies have been described as “nuclear weapons” and why have they been so described? With reference to decided cases illustrate the impact of one of these “nuclear weapons” on a defendant and any third party.

4. Show with reference to decided cases how the courts have approached the vexed issue of division of property consequent on relational dislocation between parties and comment on the extent to which this approach to the decision-making has been consistent with established principles.

REAL PROPERTY

5. Marianna wishes to grant a 15-year lease of a building comprising a shop and flats to Xavier. The lease contains the following covenants, *inter alia*:

- “(a) The tenant should keep the property in good tenable repair, fair wear and tear excepted.

- (b) The premises should not be used for immoral purposes.

- (c) The tenant shall peaceably hold and enjoy the demised premises without any interruption by the landlord or any person claiming under him or any other person.”

Advise on the meaning and importance of these covenants.

6. Answer **BOTH** (a) **AND** (b)

- (a) What are the main requirements for a valid easement to exist?

- (b) In 1994, Anya purchased from Bertie the fee simple interest in land known as Ivyland. There is a narrow path from the main road that leads to Ivyland. Otherwise, Ivyland is completely surrounded by two unimproved lots belonging to Bertie and Curtis respectively.

Since January 1995, Anya has regularly parked her car on Bertie's lot beside the main road. Bertie lives abroad for most of the time and has only just discovered that Anya parks her car on the lot. Bertie had leased the lot to Danny from 1998 to 2005 and Danny was well aware that Anya parked her car on the lot but had raised no objection to it.

Immediately after purchasing Ivyland, Anya asked Curtis whether she could take a shortcut across Curtis' lot in order to get to a nearby housing scheme. Curtis agreed to this.

Curtis now objects to Anya's continued use of the short cut across his lot and Bertie also now objects to Anya's continued parking of her car on his lot.

Discuss the implications of the above for the parties concerned.