UNIVERSITY OF CAMBRIDGE INTERNATIONAL EXAMINATIONS
General Certificate of Education
Advanced Subsidiary Level and Advanced Level

LAW **9084/23**

Paper 2 Data Response **May/June 2013**

1 hour 30 minutes

Additional Materials: Answer Booklet/Paper

4400290307

READ THESE INSTRUCTIONS FIRST

If you have been given an Answer Booklet, follow the instructions on the front cover of the Booklet.
Write your Centre number, candidate number and name on all the work you hand in.
Write in dark blue or black pen.
You may use a soft pencil for any diagrams, graphs or rough working.
Do not use staples, paper clips, highlighters, glue or correction fluid.

Answer **one** question.

At the end of the examination, fasten all your work securely together.
The number of marks is given in brackets [ ] at the end of each question or part question.

This document consists of **5** printed pages and **3** blank pages.

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Answer **either** Question 1 **or** Question 2.

You should make appropriate reference to the source material supplied for each question.

1 Frank is charged with two counts of theft and one of burglary. He is remanded for trial at Cromer Crown Court. Alf, Ben and Deena are amongst those summoned to attend court for jury service.

Alf writes back to the summoning officer saying that he is disqualified from sitting because he has not been resident in the United Kingdom for at least 5 years since the age of 13. He is therefore released from jury service. In fact Alf has lived in the UK all his life and he only says this because he does not want to sit on a jury during the summer months.

The jury is sworn in and the trial takes place. Frank is found guilty.

(a) The summoning officer has discovered that Alf's statement that he is disqualified is not true. Advise him what steps he can take against Alf. [10]

(b) Frank's lawyers have discovered that Ben has not disclosed that he was sentenced to a 5-year prison sentence 10 years ago. Consider whether an appeal would be successful. [10]

(c) Frank's lawyers have discovered that Deena is profoundly deaf although she can understand what others are saying through lip-reading. Consider whether an appeal would be successful. [10]

(d) Compare the advantages and disadvantages of involving members of the public as jurors in criminal trials. [20]

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Source Material

The Juries Act 1974

s.1 (1) Every person shall be qualified to serve as a juror in the Crown Court, the High Court and county courts…if –
(a) He is for the time being registered as a parliamentary or local government elector and is not less than eighteen nor more than seventy years of age;
(b) He has been ordinarily resident in the United Kingdom…for any period of at least five years since attaining the age of thirteen;
(c) he is not a mentally disordered person; and
(d) he is not disqualified for jury service.

Persons disqualified
s.6 A person who has at any time been sentenced in the United Kingdom... –
(a) to imprisonment for life…or custody for life
…
(e) to a term of imprisonment of five years or more or a term of detention of five years or more.

Discharge of summonses to disabled persons only if incapable of acting effectively
s.9 B (1) where it appears …in the case of a person attending in pursuance of a summons under this act, that on account of physical disability there is doubt as to his capacity to act effectively as a juror the person may be brought before the judge
s.9 B (2) the judge shall determine whether or not the person shall act as a juror; but he shall affirm the summons unless he is of the opinion that the person will not, on account of his disability, be capable of acting effectively as a juror…

Reversal of judgments
s.18 (1) no judgment after verdict in any trial by jury in any court shall be…reversed by reason –
(b) that a juror was not qualified in accordance with s.1 of this Act…
…
(d) that any juror was unfit to serve.

Penalties for making false representations
s.20 (5) (a) …having been summoned under this Act makes, or causes or permits to be made on his behalf, any false representation to the appropriate officer with the intention of evading jury service…he shall be liable on summary conviction to a fine…

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2 Rahul and Sykes enter the local supermarket. Rahul is armed with an imitation firearm and is wearing a mask over his face with a picture on the front of Tony Blair, the former Prime Minister of the United Kingdom. He threatens the shopkeeper with the imitation firearm while Sykes takes money from the cash register. The shopkeeper struggles with Rahul, during which the mask comes partly off. Rahul and Sykes escape with the money. The shopkeeper makes a statement to the police describing the mask and saying that he could identify Rahul again but not Sykes.

A week later a man enters the shop and the shopkeeper recognises him as Rahul. He calls the police who arrest Rahul. They then search Rahul's flat and find a Tony Blair mask under his bed. At the police station Rahul admits the offence and names Sykes as his accomplice. Sykes is arrested and is brought to the police station. He refuses to answer questions but asks for access to a solicitor. The police put a bugging device in the room and Sykes is heard to admit the offence to his solicitor. The police fail to arrange an identity parade to see whether the shopkeeper can pick out Rahul. Both defendants deny the offence and are tried at the Crown Court.

(a) With reference to Rahul, discuss whether the police have acted in breach of Code D of PACE. [10]

(b) Discuss whether even if there had been a breach of Code D the evidence of the shopkeeper with regard to Rahul would be admissible. [10]

(c) Discuss whether Sykes' confession to his solicitor would be admitted at trial. [10]

(d) The Human Rights Act 1998 has made a considerable impact on the law over the past 15 years. Critically assess its main contributions, illustrating your answer with relevant case law. [20]

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Source Material

Police and Criminal Evidence Act 1984
Code D

3.12 Whenever:
(i) a witness has identified a suspect prior to any identification procedure…having been held; or
(ii) there is a witness available, who expresses an ability to identify the suspect and the suspect disputes being the person the witness claims to have seen…
an identification procedure shall be held unless it is not practicable or it would serve no useful purpose in proving or disproving whether the suspect was involved in committing the offence.

Police and Criminal Evidence Act 1984

s.78
(1) In any proceedings the court may refuse to allow evidence on which the prosecution proposes to rely…if it appears to the court that, having regard to all the circumstances, including the circumstances in which the evidence was obtained, the admission of the evidence would have such an adverse effect on the fairness of the proceedings that the court ought not to admit it.

Human Rights Act 1998
Schedule 1

Article 6
In the determination of his civil rights and obligations or of any criminal offence everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

Article 8 (1)
Everyone has the right to respect for his private and family life…

Article 8 (2)
There shall be no interference by a public authority with the exercise of this right except such as in accordance with the law…

Campbell v UK 15 EHRR

Held that a high level of protection is to be accorded to communications between a detained person and his lawyer. A breach of privilege may give rise to violation of Article 8 and Article 6.

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