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

LAW **9084/23**

Paper 2 Data Response **October/November 2013**

1 hour 30 minutes

Additional Materials: Answer Booklet/Paper

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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.
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 **(a)** Sohaib and his friend Hari were staying at a large hotel. It was a sunny day and they decided to go for a walk in the hotel gardens. Hari noticed something shining on the ground and found it was a watch. It looked very expensive and, as he did not have a watch, he decided he would like to keep it. Sohaib told Hari he must give it in to the hotel.

Advise Hari whether he has a right to keep the watch. [10]

(b) Caspar visits his cousin Raymond for the weekend at Raymond's house. Raymond asks Caspar to help him dig his garden as he wishes to plant some vegetables. After 15 minutes Caspar finds a metal container in the soil. It contains a number of coins and a bronze necklace. Some of the coins appear to be made of gold. He thinks they may be Roman and could be nearly 2000 years old.

Advise whether the coins and the necklace are likely to be declared treasure. [10]

(c) If the necklace and the coins are declared to be treasure explain who may be entitled to a reward. [10]

(d) Discuss which rules of interpretation of statutes would be useful in interpreting the Treasure Act. [20]

Source Material

Armory v Delamirie [1722]

A boy found a ring and claimed ownership as the finder of the object. He took it to a jeweller to be valued and a dishonest employee of the jeweller took the jewel out of the ring and kept it for himself. The boy who found the ring was declared to be the owner based on the principle of 'finders keepers' which means that the finder of an object has the next best claim to an object after the true owner.

Parker v British Airways Board [1982]

A passenger, Mr Parker, found a bracelet on the floor of an executive lounge at Heathrow airport. He gave it to an employee of the British Airways Board who were the occupiers of the land. An advertisement was placed looking for the true owner of the bracelet, but no one came forward to claim it. Mr Parker's claim was based on the common law rule 'finders keepers'. This case decided that a finder can keep an item for himself unless the occupier of the land has shown that he intends to exert control over the land and any objects found there. In this case there was some control exerted by the British Airways Board who checked tickets to see who could enter the lounge, but there was no advice given to the passengers of what should be done with lost items if found in the lounge.

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The Treasure Act 1996

Section 1 Meaning of "treasure".
(1) Treasure is—
  (a) any object at least 300 years old when found which—
    (i) is not a coin but has metallic content of which at least 10 per cent by weight is precious metal;
    (ii) when found, is one of at least two coins in the same find which are at least 300 years old at that time and have that percentage of precious metal; or
    (iii) when found, is one of at least ten coins in the same find which are at least 300 years old at that time;
  (b) …
  (c) …
  (d) any object which, when found, is part of the same find as—
    (i) an object within paragraph (a) … found at the same time or earlier; or
    (ii) an object found earlier which would be within paragraph (a) … if it had been found at the same time.

Section 3 Supplementary.
(3) "Precious metal" means gold or silver.

Section 4 Ownership of treasure which is found.
(1) When treasure is found, it [can be claimed by] … the Crown.

Section 10 Rewards.
(2) The Secretary of State must determine whether a reward is to be paid by the museum before the transfer.
(3) …
(4) The total reward must not exceed the treasure's market value.
(5) The reward may be payable to—
  (a) the finder or any other person involved in the find;
  (b) the occupier of the land at the time of the find;
  (c) any person who had an interest in the land at that time, or has had such an interest at any time since then.

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[Turn over

2 Carl and David are both 19 years of age. They visit a nightclub in Leeds. David leaves his jacket in the cloakroom. At the end of the evening he returns to the cloakroom and whilst there he steals a wallet from someone's coat. Elijah, the attendant, sees this and calls the security staff. David and Carl are annoyed. David and Carl threaten and abuse Elijah and the security staff. The police are called and David and Carl are arrested.

They appear in the Magistrates' Court charged with summary offences of using threatening and abusive behaviour. David is also charged with the theft of the wallet.

Carl has 2 previous convictions over the last 3 years for burglary. For each of these convictions he was given a Community Punishment Order which he successfully completed. He has been unemployed for the past 6 months and lives with his mother and younger brother.

David has no previous convictions although he is currently on police bail for allegedly causing a breach of the peace during a student demonstration over university tuition fees. He has just completed his first year at university.

Carl and David plead not guilty to these charges.

(a) Discuss the issues that the magistrates might consider when deciding whether or not Carl should be released on bail. [10]

(b) Discuss the issues that the magistrates might consider when deciding whether or not David should be released on bail. [10]

(c) Assume that bail has been granted to David and Carl and the date for the trial is set for 2 months' time.

Consider the effect on David's right to bail if, 3 weeks before he appears in court for his trial, Elijah contacts the police and informs them that David has returned to the nightclub and threatened to harm him. [10]

(d) Evaluate the advantages and disadvantages of a trial before the Crown Court as opposed to a trial before the Magistrates' Court. [20]

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Source Material

Extracts from the Bail Act 1976

Schedule 1

Para 2(1) The defendant need not be granted bail if the court is satisfied that there are substantial grounds for believing that the defendant, if released on bail (whether subject to conditions or not) would:

(a) fail to surrender to custody; or

(b) commit an offence whilst on bail; or

(c) interfere with witnesses or otherwise obstruct the course of justice, whether in relation to himself or any other person.

Para 2A The defendant need not be granted bail if:

(a) the offence is an indictable offence or an offence triable either way; and

(b) it appears to the court that he was on bail in criminal proceedings on the date of the offence.

R(F) v Southampton Crown Court [2009]

The court had refused to grant bail because it was not sure that the accused would stay out of trouble. The Court of Appeal found there had to be substantial grounds for believing that the defendant would breach the terms of his bail under Schedule 1 if bail was to be refused.

Note

Under the Theft Act 1968 theft is a triable either way offence.

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