Cambridge International AS & A Level

Cambridge International Examinations
Cambridge International Advanced Subsidiary and Advanced Level

LAW **9084/23**

Paper 2 Data Response **October/November 2014**

1 hour 30 minutes

Additional Materials: Answer Booklet/Paper

2940127754

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, 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 **3** printed pages and **1** blank page.

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[Turn over

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

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

1 Darius had a meal with some friends in a restaurant. After the meal the friends left the restaurant thinking that Darius was going to pay the bill. The bill was brought, and after an argument, Darius refused to pay. He went towards the door but was advised not to leave as the police had been called. He stayed in the restaurant until the police arrived.

In the meantime Darius' friend Alan took a taxi home from the restaurant. Alan being very tired did not tell the taxi driver his exact address. When the taxi driver delivered him to the wrong address ten miles away from his home, he refused to pay the fare and ran off.

(a) Consider whether either Darius or his friends have committed an offence. [10]

(b) Consider what difference, if any, it would have made if Darius had left the restaurant before the police arrived. [10]

(c) Consider whether Alan has committed an offence when he ran off from the taxi. [10]

(d) Explain how prosecution and defence might appeal the outcome of a Crown Court trial. Discuss briefly whether these routes of appeal are effective. [20]

Source Material

The Theft Act 1978

s.3 (1) Making off without payment
A person who, knowing that payment on the spot for any goods supplied or service done is required or expected from him, dishonestly makes off without having paid as required or expected and with intent to avoid payment of the amount shall be guilty of an offence.

s.3 (2) For purposes of this section 'payment on the spot' includes payment at the time of collecting goods on which work has been done or in respect of which a service has been provided.

R v MacDavitt 1981

MacDavitt had a meal with some friends but refused to pay the bill. He started to leave but did not do so when he was told the police had been called. MacDavitt admitted he intended to leave the restaurant without paying.

Held: 'Makes off' refers to making off from the spot where the payment is required or expected. What that spot is depends on the facts in any case. In this case, the spot was the restaurant and he did not leave the restaurant. MacDavitt was found not guilty.

R v Aziz 1993

Aziz requested a taxi driver to take him to a club 13 miles away. On arrival at the club, Aziz refused to pay the fare of £15, claiming that the journey was only four miles. Aziz was taken to the police station, where he ran out of the taxi, but was caught by the taxi driver. Aziz was convicted of making off without payment.

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R v Brooks and Brooks 1983

A father, daughter and another man (Mr Smith) went to a restaurant. The daughter had to leave early. Later, the father and Mr Smith then left without paying. All three were convicted of making off without payment. The daughter appealed, saying that she honestly thought her father was paying.

Held: The daughter's conviction was quashed. The words 'dishonestly makes off' should be given their ordinary meaning and the jury should relate these words to the facts of any case. The words 'make off' simply mean depart.

2 During a night out celebrating his birthday with his wife Sharon, his brother Adam and best friend Tom, James writes out his will on a table napkin (serviette). He leaves his house to Sharon, a legacy of £10 000 to his sister Carmen and the balance of his estate to Adam. He then signs the will. Adam and Tom see James sign the will, and they are then asked to sign it as witnesses, which Adam does. Before Tom has a chance to do so he feels faint and has to go home. Feeling better the next day he meets James at his home and signs the will.

James dies a month later.

(a) Consider whether a will written on a table napkin could be valid. [10]

(b) Consider whether the will has been properly witnessed by Tom. [10]

(c) Tom has told Adam that he is unable to inherit anything under James' will. Consider with reasons whether Tom is correct. [10]

(d) Describe in outline the key features of the doctrine of precedent and briefly explain how a judge can avoid following a precedent. [20]

Source Material

Wills Act 1837

s.9
No will shall be valid unless it is in writing, and signed by the testator (i.e. the person making the will), or by some other person in his presence and by his direction; and the signature is made or acknowledged by the testator in his presence of two or more witnesses present at the same time; and each witness either confirms the testator's signature and signs the will; or acknowledges the signature, in the presence of the testator.

s.15
A gift to any witness to a will shall be void and any gift to the wife or husband of a witness shall also be void. This does not affect the validity of the will.

Hodson v Barnes 1926

A Manchester widow found an empty eggshell on her husband's wardrobe. On it was written "17-1925. Mag. Everything I possess. – J.B."

The dead man had been dieting and used to bring eggs with him to work. His initials had been J.B., the message was in his handwriting, and he had always called his wife "Mag." The court accepted the shell as a valid will.

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