

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

LAW

9084/02

Paper 2 Data Response

October/November 2004

Additional Materials: Answer Booklet

1 hour 30 minutes

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 on both sides of the paper.
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.



Answer **one** of the following questions.

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

- 1** A team of archaeologists has recently been excavating the ruins of an ancient Roman town in the south of England. They have now left the site. Soon afterwards, two treasure-hunters, Darwin and Columbus, arrive with their metal detectors. They discover the following articles:
- (i) a box containing a number of gold coins bearing the head of the Roman Emperor Claudius
 - (ii) a number of Roman copper coins scattered around the box
 - (iii) a bronze necklace with precious jewels found in the remains of a building nearby
 - (iv) a Viking spearhead with a silver tip, dating from 800 AD. The silver tip accounts for 10% of the total weight of the object.
- (a) Darwin and Columbus want to keep these items but are aware that if, under the Treasure Act, they are classed as treasure, they must be given up to the State. Advise them whether the items they have found would be classed as treasure. [10]
- (b) Darwin and Columbus have handed the items to the State but wish to contest the ownership in court. Darwin says that he has read a copy of Hansard, which recorded the debate of the Treasure Act in Parliament, and a Law Commission Report, both of which would assist his case. Can he use these in court to support his argument? Explain with reference to decided principles. [5]
- (c) What intrinsic aids might the Treasure Act contain to help make its meaning clearer? [5]
- (d) In statutory interpretation, rules of language are often used. Using relevant cases to illustrate your answer, explain what these are. [5]

Source 1.1**Extracts from the Treasure Act 1996**

...s.1(1) Treasure is:

- (a) any object at least 300 years old when found which:
 - (i) is not a coin but has a 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 a 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;

... (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...

...s.1(5) If the circumstances in which objects are found can reasonably be taken to indicate that they were together at some time before being found, the objects are presumed to have been left together, unless shown not to have been.

...s.3(2) 'coin' includes any metal token which was, or can reasonably be assumed to have been, used or intended for use as or instead of money.

s.3(3) 'Precious metal' means gold or silver.

...s.3(4) When an object is found, it is part of the same find as another object if:

- (a) they are found together
- (b) the other object was found earlier in a different place, but they had been left together and had become separated before being found.

s.4(1) when treasure is found, it vests, subject to prior interests and rights...

...(b) in the Crown...

...s.8(1) A person who finds an object which he believes or has reasonable grounds for believing is treasure must notify the coroner for the district in which the object was found before the end of the notice period.

(2) The notice period is fourteen days beginning with –

- (a) the day after the find; or
- (b) if later, the day on which the finder first believes or has reason to believe the object is treasure.

(3) Any person who fails to comply with subsection (1) is guilty of an offence and liable on summary conviction to –

- (a) imprisonment for a term not exceeding three months;
- (b) a fine;
- (c) both.

2 The police decide to set a trap for burglars and drug dealers.

Undercover police officers Smith and Brown arrange to rent a shop. They pretend to be dealers who are prepared to purchase stolen goods and drugs. The shop is fitted with secret cameras and listening devices to record transactions.

Bill Sykes brings in some video-recorders, which he says he has stolen in burglaries. He is arrested. Shortly afterwards Fagin comes in with some purses which he says have been stolen by pickpockets. Police Officer Smith asks him if he has access to drugs. Fagin promises to bring in some cocaine the next day. When he returns to the shop with the drugs, he is arrested.

Weed, a drug dealer, brings in some cannabis. Police Officer Brown asks him if he can get some heroin. He is reluctant, saying that he only deals in Class B drugs, but Brown offers him some cut-price cigarettes as an inducement. The next day Weed brings some heroin into the shop and is arrested for attempting to supply Class A drugs.

At their trial, Sykes, Fagin and Weed seek to argue that the evidence of the police officers and their tape recordings should be excluded under Section 78 of PACE and Article 6 of the European Convention on Human Rights, now incorporated in the Human Rights Act 1998.

Discuss whether the evidence of the police officers and their recording equipment can be used in the trial of the following:

- (a)** Bill Sykes on charges of burglary? [5]
- (b)** Fagin on charges of handling stolen goods? [5]
- (c)** Fagin on a charge of supplying cocaine? [5]
- (d)** Weed on a charge of supplying cannabis? [5]
- (e)** Weed on a charge of supplying heroin? [5]

Source 2.1**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 to be given if it appears to the court that, having regard to the circumstances, including the circumstances in which the evidence was obtained, the admissions of the evidence would have such an adverse effect on the fairness of proceedings that the court ought not to admit it.' ...

Source 2.2**The European Convention on Human Rights Article 6(1)**

...'In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.'...

Source 2.3**Teixeira de Castro v Portugal (1999) EHRR 101 ECHR**

In this case the European Court of Human Rights held that where undercover police officers did not confine themselves to investigating criminal activity in an essentially passive way, but incited the commission of an offence which would not otherwise have been committed, the later trial of the individual so incited would constitute a violation of Article 6(1) of the European Convention on Human Rights.

Source 2.4**Nottingham County Council v Amin [2001] 1 Cr App.R.426**

In this case Lord Bingham CJ held that it was 'deeply offensive to ordinary notions of fairness' if a defendant were to be convicted of a crime which he only committed because he had been 'incited, instigated, persuaded, pressurised or wheedled' by a law enforcement officer. It was, however, unobjectionable if an officer merely gave a defendant an opportunity to break the law and then the defendant freely took advantage, in circumstances where it appears that the defendant would have behaved in the same way if the opportunity had been offered by anyone else.

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