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Name _____

VCE LEGAL STUDIES 3/4 2016

CPAP Practice Examination No. 2

Reading time: 15 minutes

Writing time: 2 hours

QUESTION AND ANSWER BOOK

Structure of book

<i>Number of questions</i>	<i>Number of questions to be answered</i>	<i>Number of Marks</i>
11	11	70

- Students are permitted to bring into the practice examination: pens, pencils, highlighters, erasers, sharpeners and rulers.
- Students are NOT permitted to bring into the examination room: blank sheets of paper and/or white out liquid/tape.
- No calculator is allowed in this examination

Materials supplied

- Question and answer book of 18 pages.
- Additional space is available at the end of the book if you need extra paper to complete an answer

Instructions

- Write your **student number** and **name** in the space provided above on this page.
- All written responses must be in English.
- You should make use of stimulus material where it is included. However, it is not intended that this material will provide you with all the information to fully answer the question.

Students are NOT permitted to bring mobile phones and/or any other unauthorised electronic devices into the examination room

Question 1 (2 marks)

Outline **one** aim that is achieved by the sanction of imprisonment, and **one** aim that may not be achieved.

Question 2 (4 marks)

Using the Magistrate's Court and Supreme Court as examples, describe **two** reasons for arranging the courts into a vertical hierarchy.

Question 3 (14 marks)

Answer the questions below, in relation to the following hypothetical scenario:

The High Court is hearing an appeal where a woman has been found guilty of murder because she robbed a store with her friend, and during the robbery her *friend* killed someone. Her lawyer argues that the relevant common law (which says someone is guilty of murder in these situations) has just been overruled in the United Kingdom, and that we should also overrule it in Australia. The High Court criticises the common law, but chooses to apply it and affirms the conviction. A majority of the justices say in the judgment that the common law has been in Australia for decades, and that it is parliament's job to override it now. They do say, however, that they might reconsider their ruling if a case came before them that showed the law had led to a serious injustice – even though in this case it had not.

- a. Is the precedent argued by the appellant's lawyer binding or persuasive on the High Court? Give a reason for your answer.

2 marks

- b. The scenario says, "The High Court criticises the common law[...]" What name is given to this act by judges?

1 mark

- c. Define the term 'ratio decidendi'. What part of the above scenario would be regarded as the *obiter dicta*?

2 marks

- d. Explain what the impact on the law would be if the High Court agreed to overrule the common law.

2 marks

- e. Apart from the relationship referred to in the scenario, describe **one** *other* feature of the relationship between the courts and parliament as law-makers.

3 marks

- f. Analyse **one** strength of the courts as law-makers that might apply to the above scenario.

4 marks

Question 4 (2 marks)

A trial is due to commence in the Supreme Court (Trial Division). Alex is suing Kris for defamation after Kris made a number of racist statements online. Explain **one** factor that might influence the composition of the jury.

Question 5 (6 marks)

Compare the roles played by the upper house in parliament with the roles played by the lower house.

[illegible]

Question 6 (4 marks)

Explain **one** difference and **one** similarity between the way in which Australia tries to protect constitutional rights and the approach taken by one other jurisdiction.

You may choose one of the following countries for your comparison: Canada; New Zealand; South Africa; or the United States of America.

[illegible]

Question 7 (6 marks)

Outline the role of the Victorian Law Reform Commission and discuss **two** weaknesses of its function or performance.

[illegible]

Question 8 (8 marks)

The courts are still the most important institution for the resolution of legal disputes.

- a. Explain **two** weaknesses of civil and/or criminal pre-trial procedures, using detail from one or more procedures to illustrate your answer.

4 marks

[illegible]

- b. To what extent do strengths of the courts, as avenues for the resolution of disputes, overcome or balance these weaknesses?

4 marks

Question 9 (6 marks)

Outline the role of the Victorian Civil and Administrative Tribunal, and explain the differences between the methods of dispute resolution used by it to resolve legal matters.

[illegible]

Question 10 (8 marks)

Protecting the integrity of the Constitution through public referenda is the most effective way to allocate powers between parliaments and protect the rights of the people.

To what extent do you agree? Illustrate your answer with **one** instance in which referenda was used to alter the Constitution.

[illegible]

[illegible]

Question 11 (10 marks)

In recent years Australia has moved closer to the inquisitorial system of trial in many of its courts and procedures.

Compare the operation of the traditional adversary system of trial with the inquisitorial system, and critically examine which system might be likely to achieve a more effective system of dispute resolution.

[illegible]

[illegible]

[illegible]

END OF QUESTION AND ANSWER BOOK

Extra space for responses

Clearly number all responses in this space

[illegible]

[illegible]