



THE HONORABLE SOCIETY OF KING'S INNS

ENTRANCE EXAMINATION

AUGUST 2006

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| Examination: | LAW OF EVIDENCE |
| Date: | MONDAY 21 AUGUST 2006 |
| Time: | 10.00 am - 1.00 pm |
| Examiner: | Ms Ruth Cannon BL |
| External Examiner: | Mr Patrick Marrinan SC |

Instructions:

Candidates must answer Question 1 from Section A and TWO questions from Section B.

Question 1 carries 50 marks.

All other questions carry 25 marks each.

CANDIDATES SHOULD ATTEMPT QUESTION 1 FROM SECTION A AND TWO QUESTIONS FROM SECTION B.

Section A

Question 1

Joseph is charged with the rape of his daughter Susan. Susan is now 14 years old and alleges that she was raped by Joseph three years ago, when she was 11. Susan is anxious not to have to go into court and has requested that she be allowed to give evidence by video-link. The prosecution also proposes to call Susan's best friend, Linda, also aged 14, who claims that Susan told her about the rape three weeks after it allegedly occurred. Susan has been attending Maura, a child psychologist, for over 10 years. Maura is available to give evidence to the effect that Susan's case history over the past three years, including a regression to bedwetting, self-harm and anorexia, is a typical childhood reaction to sexual abuse. Maura has also produced pictures drawn by Susan's five year old sister, Amy, which allegedly show Joseph engaging in sexual acts with Susan. Joseph and his wife, Lydia, have been receiving sexual counselling from Maura's colleague, Philip, throughout their marriage, and Maura has heard informally from Philip that the sexual difficulties between the couple have been due to paedophilic inclinations on the part of Joseph.

Based on the information in the above scenario, prepare a memorandum on admissibility of each of the following pieces of evidence from point of view of the defence, anticipating likely arguments from the prosecution:

- (a) Susan's video-link evidence;
- (b) Linda's evidence;
- (c) Maura's evidence regarding (i) Susan's subsequent case history and (ii) the pictures drawn by Amy;
- (d) Philip's evidence regarding disclosures made by Joseph in the course of marital counselling sessions.

Section B

Question 2

John is arrested while walking through Trinity College and detained for a period of 48 hours under the Criminal Justice (Drug Trafficking) Act 1996. No prohibited substance is found on his person or clothes. At the end of the initial 48 hour period his detention is extended for a further 48 hours on the written approval of a Garda Superintendent. John is allowed to contact his solicitor, but when he requests that this solicitor be present during questioning, this request is refused. John's mother comes in to see him. She tells him in the presence of two officers that "it would be best" if he confesses. After 71 hours John makes a confession to drug trafficking. He subsequently wants to set the confession aside. After his confession, the Gardai searched John's bedroom in his parents' house, with his mother's permission, and found a small quantity of cannabis under the mattress.

Consider the evidentiary issues arising.

Question 3

Critically discuss each of the following exceptions to the hearsay rule, outlining whether, in your opinion, they provide a convincing rationale for the inclusion of hearsay evidence which would otherwise been excluded:

- (i) dying declarations regarding cause of death;
- (ii) statements in public documents;
- (iii) spontaneous statements made by a participant/observer of a relevant event.

Question 4

Critically outline the exceptions to the principle that the legal burden of proof in criminal proceedings always rests on the prosecution.
