



# THE HONORABLE SOCIETY OF KING'S INNS

## ENTRANCE EXAMINATION

SEPTEMBER 2003

- Examination:** LAW OF EVIDENCE
- Date:** MONDAY 1 SEPTEMBER 2003
- Time:** 10.00 a.m. – 1.00 p.m.
- Internal Examiner:** Professor Caroline Fennell
- External Examiner:** Mr Patrick Marrinan SC

### Instructions:

**Candidates must answer question 1 and two questions from Section B.**

**Question 1 carries 50 marks.**

**All other questions carry 25 marks each.**

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

Section A

1. Gardaí receive information that drug dealing is being carried on at a house in Ranelagh. When the gardai arrive at the scene, they see a 03 D Reg. sports car parked outside the house, and three men in white suits and sunglasses talking at the doorway. Seeing the gardai the men flee in to the house leaving the door ajar. The gardai enter the house whereupon the men rush out the back door onto the lane way behind. One of the men Mr. Star is captured and immediately arrested under section 30 of the Offences Against the State Act 1939. The gardai discover a small amount of cocaine in an envelope in his pocket. Having observed an amount of drug paraphernalia lying around the premises when they entered, they obtain a warrant for the house in Ranelagh, which is owned by Mr Black, and discover a haul of stolen VCRs in an upstairs bedroom. They also obtain a warrant for search of the premises in Dalkey named on the envelope containing the cocaine, and there discover a very large quantity of heroin in the possession of one John White, a guest staying in that house. Gardaí arrest Mr White and Mr Black under the Criminal Justice (Drug Trafficking) Act 1996.

Mr Star Mr Black and Mr White all allege that when arrested they were denied prompt access to their lawyers. In the case of Mr White his request to have his interrogation recorded for later perusal by his lawyer was denied. Mr Star also alleges that his pregnant wife was brought in to the interrogation room and encouraged him to make a clean breast of things for the sake of their unborn child, after which he made a statement of admission. He claims that statement is untrue, and claims that he was particularly vulnerable during interrogation, given his addiction to cocaine, from which he was suffering withdrawal symptoms.

*Based on the information in the above scenario prepare a memorandum on admissibility of evidence from the point of view of the defence, anticipating likely arguments from the prosecution.*

## Section B

2.  
Give an account of the rules in relation to private privilege under Irish law.  
OR  
Give an account of the Irish law in relation to the burden of proof.
3. Peter is a taxi company owner who operates a lucrative side business making drug deliveries around the Dublin metropolitan area. His wife is aware of the business and disapproves of it wholeheartedly. She fears in particular for its effect on their twin boys aged 10, who appear very aware of what is going on. Her fears have recently been confirmed by the boys' teacher Jane who says the boys have confided in her about their father's sideline, and she herself has noticed the disruptive effect that is having on their school work. Peter's mother is sympathetic to Peter feeling he is only doing his best for his family. Peter's father has long been involved in the drugs business and in fact recently has worked with Peter on deliveries. He however feels that he has always been the small guy who took the risks for people like his son and is now anxious to secure a witness protection programme deal which he believes to involve relocation in sunnier climes far away from both Peter and his mother.  
Consider the evidentiary issues arising.
4. 'There are two pitfalls into which some experts are prone to tumble. The first is a tendency to avoid presenting the whole picture and thus creating an unbalanced assessment of the situation... The second... is where the expert drifts into the role of advocate...' (Mr Justice Barr)  
Discuss.