



THE HONORABLE SOCIETY OF KING'S INNS

ENTRANCE EXAMINATION

AUGUST 2004

Examination: Law of Evidence

Date: Monday 23 August 2004

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.

LAW OF EVIDENCE EXAMINATION 2004

Candidates should attempt Question 1 and TWO Questions from section B

SECTION A

Mike is arrested in a pub for the theft of a sandwich. Gardai bring him to the station, stopping at his house to allow him to inform his mother. While he is saying goodbye to his mother, the arresting Gardai observe some drug paraphernalia lying around the kitchen, and so conduct a search of his bedroom where they find a small quantity of cocaine. In the garden wall surrounding the house, they find a much larger quantity of cocaine & ecstasy.

At the station Mike is placed in a holding cell with an undercover drug squad officer, who informs Mike that the Gardai will go easy on him, if he provides them with the names of dealers in his area. In the course of his conversations with the undercover officer, Mike reveals that he is one of the major suppliers of cocaine in Cork. Mike is interrogated throughout the next 24 hours by Garda Orange and Garda Blue. He is allowed frequent phone calls to his solicitor. Garda Blue is present for some of these. His mother is brought to visit him the following morning. She reminds him of an upcoming family wedding where he must be present, as he is to be best man, and tells him not to let down the family name. Mike then consults with his solicitor in person. His solicitor requests the garda notes of earlier interviews, but is refused these, and Mike subsequently breaks down when being questioned by Garda Orange in the presence of his solicitor, and confesses to his drug dealing activities. Discuss the evidentiary issues arising.

SECTION B

2. Give an account of the legal position of the accused as a witness.
3. 'Legal professional privilege is a fundamental principle of the common law' (McNicol).

Discuss in the context of Irish law.

4. Maura is a young woman who plays in a well regarded Chamber music ensemble. As a child she took violin lessons in the local convent. Her instructor Sr. Nan is now the subject of a media expose with regard to alleged abuse of young boarders at that convent. Maura has always had concerns regarding her own treatment while a music pupil there, and remembers clearly being locked in the music room with Sr. Nan for long periods. She is a devotee of alternative therapies, and so while on a concert tour visit to Poland, undergoes hypnosis. As a result she alleges that she can now recall several incidents of abuse. Her hynotherapist has since gone travelling to India, but her local GP is willing to testify that Maura exhibits all the classic signs of having sustained such abuse. Sr. Nan denies all allegations and says there were never locks on any doors in the convent. A contemporary of Maura's, Peter, who suffers from a mild depressive illness, supports her allegations of being locked for long periods in music rooms.

Discuss the evidential issues arising.