2012 PRELIMINARY HALF YEARLY EXAMINATION.

LEGAL STUDIES

General Instructions

• Working Time – 90 minutes.
• Reading Time – 5 minutes.
• Write using blue or black pen
• Write your name on this page and on the multiple choice answer sheet (page 15), which can be removed for your convenience
• Extra writing paper may be requested
• Raise your hand and wait patiently should you require assistance

Total marks – 85

Section I: Multiple Choice
15 marks
Questions 1-15
Allow approx. 15 minutes for this section

Section II: Glossary
15 marks
Questions 16 - 30
Allow approx. 15 minutes for this section

Section III: Short answers
25 marks
Questions 31 - 36
Allow approx. 25 minutes for this section

Section IV: Newspaper article analysis
15 marks
Questions 37 - 42
Allow approx. 15 minutes for this section

Section IV: Extended writing
15 marks
Question 43
Allow approx. 20 minutes for this section

Section I: Multiple Choice
15 marks
Allow about 15 minutes for this section

- Remove and use the multiple choice answer sheet for your own convenience.
- Record your name on the sheet.

Select the alternative A, B, C or D that best answers the question. Fill in the response sheet clearly.

Sample: 2 + 4 =
(A) 2
(B) 6
(C) 8
(D) 9

If you think you have made a mistake, put a cross through the incorrect answer and fill in the new answer.

If you change your mind and have crossed out what you consider to be the correct answer, then indicate the correct answer by writing the word correct and drawing an arrow as follows.

1. What best describes customary law?
A  Laws decided by judges
B  Laws that have their basis in long continued practices
C  Laws decided by parliament
D  Laws passed down by local councils

2  Which of the following examples best illustrates an attempt by the government to provide equality of outcomes?
A  Decreasing the number of anti-discrimination laws
B  Decreasing the number of places available in universities
C  Increasing the number of justices of the High Court
D  Increasing the number of university placements for Aboriginal and Torres Strait Islander people

3  An aspect of the “rule of law” is that:
A  The law should reflect the religion of the state
B  The law should be known to all if affects
C  The law should be applied arbitrarily
D  The law should be changed annually

4  Anarchy and tyranny differ because:
A  Anarchy describes the state of a society that does not have laws or state rule.
B  Tyranny occurs when a single person takes power from an existing democratic government totally disregarding the powers of lawmakers and enforcers.
C  Tyranny involves overthrowing a government and assuming total control whilst anarchy exists in situations where there is no authority to direct human behaviour.
D  All of the above.

5  The theory that the law should aim to ensure the greatest possible happiness for the greatest number of people is called:
A  Totalitarianism
B  Communism
C  Utilitarianism
D  Republicanism

6  Just laws embody the following key characteristics. They:
A. Treat people equally, must be known and increase inequalities.
B. Aim for utilitarianism, minimise delays and should be retrospective.
C. Must be known, treat people equally and are based on widely held values
D. Reduce inequalities, must be known and increase delays

7. The doctrine of natural justice include the right of:
   A. A person to participate in legal proceedings in which they have an interest.
   B. The defendant to have a hearing, during which they are able to present evidence.
   C. The accused to have a matter heard before a court that is free from bias.
   D. All of the above

8. In a criminal trial:
   A. The accused persons’ previous criminal convictions are permitted to be brought up during the trial and considered in sentencing.
   B. The accused persons’ previous criminal convictions are not permitted to be brought up during the trial but can be considered in sentencing.
   C. The accused persons’ previous criminal convictions are permitted to be brought up during the trial but can not be considered in sentencing.
   D. None of the above.

9. The ratio decidendi is:
   A. A statement by the judge about his/her reasoning for a decision in a case; whereas the obiter dicta is a personal opinion made by a judge.
   B. A personal opinion made by a judge; whereas obiter dicta is a statement by the judge about his/her reasoning for a decision in a case.
   C. A Latin term for the different levels within the court hierarchy
   D. A statement by the judge about his/her reasoning for a decision in a case; whereas the obiter dicta is a precedent made by a judge.

10. In terms of jurisdiction, which statement is true?
    A. The Local Court has original and appellate jurisdiction.
    B. The High Court has appellate jurisdiction in constitutional matters.
    C. The District Court has appellate jurisdiction in matters appealed from the Local Court.
    D. The Federal Court has appellate jurisdiction in matters appealed from the Supreme Court.

11. Summary and indictable offences are different. Which statement is true about their difference?
A Summary offences are major offences which include sexual assault and murder and are heard in the Local Court.
B Indictable offences are major offences which include sexual assault and murder and are heard in the Local Court.
C Indictable offences are major offences which include sexual assault and murder and are heard in the District or Supreme Court.
D Summary offences are minor offences which include drink driving and shoplifting and are heard in the District Court.

12 The House or Representatives is:
A The lower house of Federal parliament where the government is formed
B Is also known as the Senate
C Is the upper house of State parliament and the House of Review
D Where the bulk of bills are introduced except for money bills

13 The Senate is the:
A Lower house of Federal parliament
B Upper house of State parliament
C Lower house of Federal parliament where money bills are introduced
D Upper house of Federal parliament and the House of Review

14 In the case of Gutnik v Dow Jones and Co. Inc. (2001) the matter was a:
A Civil defamation case
B Criminal defamation case
C Civil contractual law case
D Criminal murder trial

15 An investigation into a suspicious death will be heard in the:
A District Court
B Supreme Court
C Suspicious Deaths Tribunal
D Coroner’s Court

**Section II: Glossary**
15 marks
Allow about 15 minutes for this section

- Select the appropriate terms from the term box below to complete the legal term column.
- Provide legal definitions of the terms that have no meanings in the legal meaning column.

**TERM BOX:**  Adversary system; Arrested; Case of Lumley V Wagner; Cross-examination; Delegated legislation; Fairness; Federal Court level; Recidivist; Retrospective; State court level; The Local Court level;

<table>
<thead>
<tr>
<th>Q No.</th>
<th>LEGAL TERM</th>
<th>LEGAL MEANING</th>
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<tbody>
<tr>
<td>16</td>
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<td>Legislation which is introduced now but backdated to cover offences that occurred in earlier times.</td>
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<td>The legitimate and proper conduct in the performance of an act or duty.</td>
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<td>Laws made by non-parliamentary bodies, such as government departments and by-laws made by local councils.</td>
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**Section III:** Short answers
31. Identify FOUR features of a just law. (4 marks)

32. Complete the court hierarchy diagram. (6 marks)

33. Differentiate between the following terms in each pair: (6 marks)
a) Laws and customs

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

b) Statute law and common law

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

c) Unicameral and Bicameral

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

34. In which TWO circumstances can a precedent be created? (2 marks)

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

35. In which court would the following matters be heard in? (4 marks)
a) A civil claim for $900 000 in damages.

b) A committal hearing for a murder trial.

c) An appeal against a suspension of a licence.

d) An appeal about a penalty for a sexual assault heard in the Supreme Court.

36. Explain how common law and equity law developed. Some terms that may assist you in your explanation are: travelling judges, chancellor, dooms, King James I, precedent. (5 marks)

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Section IV: Newspaper article comprehension

15 marks
• Read the TWO newspaper articles (which are on the back of the Multiple Choice Answer Sheet, pg 16).
• Answer questions 37 - 42 below.

Refer to ARTICLE 1.

37. Who was killed and who was charged with murder? (2 marks)

38. True or false? (Clearly write the word TRUE or FALSE) (4 marks)
(a) The defendant has pleaded guilty. __________
(b) The defendant was refused bail. __________
(c) Both the defendant and the victim were shot on the day of the killing. __________
(d) The Homicide Squad is investigating Michael Jacobs’ murder. __________

39. Which word is used in the article for? (2 marks)

a) Someone being accused of a crime, not yet proven. __________________________

b) Method for finding out if a driver has a high range PCA. ______________________

Refer to ARTICLE 2.

40. Which two weapons were used by police to subdue the man? Outline the NSW Premier’s views on the use of such weapons. What did the police feel the dead man was guilty of? (4 marks)

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

Both ARTICLES

41. What is the source of the articles? (1mk) __________________________

42. Which category of law is reflected in both articles? Is the adversary or the inquisitorial system used to determine innocence or guilt in such matters. (2 mks)

________________________________________________________________________
________________________________________________________________________

Section IV: Extended writing
15 marks
Allow about 20 minutes for this section

- Read question 43 carefully.
- Plan an answer to respond to the question.

In your answer you will be assessed on your ability to:
- demonstrate knowledge and understanding relevant to the question
- communicate using relevant legal terminology and concepts
- illustrate your answer with relevant examples such as legislation, cases, media reports and treaties
- present a sustained, logical and cohesive response

43. Describe the jurisdiction of the varying levels and courts within the court hierarchy of Australia. With reference to contemporary cases and your knowledge of the legal system, comment on the effectiveness of the legal system.

PLANNING SPACE:

EXTENDED RESPONSE:
Section I – Multiple Choice Answer sheet

(Remove for your own convenience)
Fill in the circle for the correct alternative.

1. A B C D
2. A B C D
3. A B C D
4. A B C D
5. A B C D
6. A B C D
7. A B C D
8. A B C D
9. A B C D
10. A B C D
11. A B C D
12. A B C D
13. A B C D
14. A B C D
15. A B C D

Student name

PRELIMINARY LEGAL STUDIES 2012
HALF YEARLY EXAM
ARTICLE 1: Shot officer: murder charge laid  
By Stephen Ryan  March 20, 2012

The man accused of killing Tamworth police officer Senior Constable David Rixon remained in hospital this afternoon after he was charged with murder earlier today.

A solicitor for Michael Allan Jacobs, 48, did not enter a plea and did not apply for bail when the case was mentioned in Newcastle Local Court this afternoon.

Mr Jacobs, of South Tamworth, is still being treated in John Hunter Hospital.

Police will allege Mr Jacobs acted alone when he shot Senior Constable Rixon, 40, who tried to breath test him in Tamworth on March 2.

The shooting is being investigated by the Homicide Squad's Strike Force Fairfull.


ARTICLE 2: Man who died after Sydney police fired Taser may not have been suspect  
March 18, 2012

A man who died in Sydney's CBD after police stunned him with a Taser might not have been involved in a robbery, police say.

Officers had identified the man as a suspect after a report of a robbery in The Rocks about 5.30am (AEDT) today.

They confronted him a short time later in Pitt Street and tried to arrest him, but say he resisted, so capsicum spray and a Taser were used to subdue him.

He stopped breathing and could not be revived despite the efforts of police and paramedics.

Acting assistant commissioner Mark Walton said police were responding to reports of a robbery and the details of what happened remains unclear.

'It's unclear as to the involvement of this man or the extent of that actual incident. Whether it is a robbery or not is unclear at this time,' Mr Walton said today.

The report of a robbery is ongoing and I cannot ... even confirm that it was an actual robbery.

It was a case of it being reported as a robbery at this time.'

Mr Walton said he could not say whether the man was armed or was under the influence of drugs and alcohol.

Nor could he give any details about the Taser incident, he said.

We don't know what's caused this man's death. That will be a matter for the investigation and coroner.'

NSW Premier Barry O'Farrell refused to comment on the incident until he had been fully briefed but said his government supported the use of Taser.

'We've always supported the use of Tasers as a non-lethal alternative,' Mr O'Farrell told reporters in Sydney.

Tasers versus guns is a clear choice.'

Police have yet to inform the man's family of his death.

The State Crime Command Homicide Squad has launched a critical incident investigation.

A stretch of Pitt Street, between Liverpool and Bathurst streets, has been sealed off.
F, F, T, F
Allege
Breath test

**ANSWERS:**

1. A ○ B ● C ○ D ○
2. A ○ B ○ C ○ D ●
3. A ○ B ● C ○ D ○
4. A ○ B ○ C ● D ○
5. A ○ B ○ C ● D ○
6. A ○ B ○ C ● D ○
7. A ○ B ○ C ○ D ●
8. A ○ B ● C ○ D ○
9. A ● B ○ C ○ D ○
10. A ○ B ○ C ● D ○
11. A ○ B ○ C ● D ○
12. A ● B ○ C ○ D ○
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<td>Rule of law</td>
<td>The concept that no individual, corporation or institution is above the law. Our Commonwealth Constitution ensures that the exercise of arbitrary power by any group is not possible.</td>
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<td>Procedural fairness</td>
<td>Often referred to as 'natural justice'. The overriding principle is the concept of fair treatment before the law.</td>
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<td>Cross examination</td>
<td>To test the evidence presented in a case, to cast doubt.</td>
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<td>Originated from the duels of the knights. Two opposing sides present their case and test their opponents' case.</td>
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<td>Discoverable</td>
<td>The basic idea that for a law to be just it must be known.</td>
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<td>Case of Lumley V Wagner</td>
<td>Lumley successfully sought an injunction to stop Wagner from singing for other employers.</td>
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<td>Federal Court level</td>
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<td>Bicameral</td>
<td>Two houses of parliament.</td>
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**The Court Hierarchy.**

**High Court**
(Only hears appeals if it grants leave to appeal)

**Federal Courts:**
Federal Court & Family Court
Federal Magistrates' service
33. Differentiate between the following terms in each pair: (6 mark)

36) Which word is used in the article for? (3 marks)

a) believed to have, but not proven  “allegedly”

b) a group of people who work together to commit crimes  “gangs”

c) punching the man and dragged him across the road  “assault”

37) What is the name of the defendant? What is he charged with? In which court is the matter being heard? Explain why the defendant didn’t physically appear in court. (4 marks)

Robert Daher; assault, destroying property and possessing a shortened firearm; Parramatta Bail Court; he appeared via a video link.

38) What special conditions did the defendant’s legal representative request for his client? Why was this request made? When and where will the defendant next appear in court? (3 marks)

protective custody; because he gave evidence in the 1994 Wood royal Commission; He will face Sutherland Local Court on March 31.