

GX 1821

**Ollscoil na hÉireann, Gallimh**  
**National University of Ireland, Galway**

**Semester II Examinations, 2002/2003**

<b>Exam Code(s)</b>	1BL1, 1BL2, 1CW1, 2BL1, 2BL2, 3BL1, 3BL2, 4BL2, 1EM1, 1OA1.
<b>Exams(s)</b>	1 <sup>st</sup> 2 <sup>nd</sup> 3 <sup>rd</sup> & 4 <sup>th</sup> LL.B. 1 <sup>st</sup> Bachelor of Civil Law Erasmus & Occasional Students
<b>Module Codes(s)</b>	LW327
<b>Module(s)</b>	Constitutional Law
<b>Paper No.</b>	1
<b>Repeat Paper __ Special Paper __</b>	
<b>External Examiner(s)</b>	Dr. Gerard Hogan
<b>Internal Examiner(s)</b>	Professor Gerard Quinn Mr. Tom O'Malley
<b>Instructions</b>	Answer <b>FOUR</b> Questions
<b>Duration</b>	<b>THREE</b> Hours
<b>No. of AnswerBooks</b>	
<b>Requirements:</b>	
Handout	
MCQ	
Statistical Tables	
Graph Paper	
Log Graph Paper	
<b>Other Material</b>	The Irish Constitution 1927
<b>No. of Pages</b>	3
<b>Department(s)</b>	Law

1. John has been charged with an offence of handling stolen property, namely 10 crates of whiskey. The circumstances in which he was found in possession of the stolen property were as follows. A neighbour, with whom John was in bad terms, became aware that the whiskey was stored in John's house and alerted the Gardai. At 11.30 p.m. on the night on which the Gardai received the report, they approached John's house and knocked on the door several times. When it was clear that nobody was going to answer, the Gardai forced open the door, entered the house and seized the whiskey. At the same time, they arrested John and detained him for questioning under s. 4 of the Criminal Justice Act, 1984. John did not answer any questions put to him while in detention, but he was later charged with handling stolen property. The prosecution case will therefore rest on the fact that the whiskey was found in John's possession. Lawyers for the prosecution have sought your advice as to whether they are likely to encounter any difficulties during the trial in having evidence about the seizure of the whiskey admitted, so that it can be put before the jury. Advise them.
2. Describe, with reference to the relevant constitutional provisions and the appropriate case law, the circumstances in which persons who have been deprived of their liberty may apply to the High Court for release on the ground that they are being detained otherwise than in accordance with law.
3. "Since the establishment of the Irish Free State in 1922, the idea that the State might be endowed with any power or privilege by virtue of prerogative has been entirely alien to our constitutional system." Discuss.
4. "Under the Irish Constitution, there is no meaningful separation of power between the legislature and the executive, but the judicial branch of government must be entirely independent of both of them." Discuss, with particular reference to the meaning of judicial independence under Irish law.
5. The Minister for Justice is considering proposing you to Cabinet to fill a vacancy on the Supreme Court. In order to help him draft his memorandum for Government he would like to know more about whether you might become an 'activist' judge and, if so, how you can reconcile such activism with adherence to the law of the Constitution. If you do not plan becoming an activist judge then the Minister would like to know your reasons.

Advise the Minister.

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6. Mary and Lisa, who are both in the early 30s, are in a permanent relationship and would like to adopt a child. A reforming Minister of Justice plans to introduce legislation to give legal recognition to same sex relationships and to confer adoption rights on such couples. The Minister is worried that such legislation might be vulnerable to constitutional attack and seeks your opinion.

Advise the Minister.

7. Write an essay on the right to private property under the Constitution.

8. Mary is married to Bob. She learns that she is pregnant and seeks information from a GP about abortion in the UK. There are no medical complications and she is not suicidal. Her GP gives her that information and she makes her own travel arrangements. Bob finds out by accident and asks you for a legal opinion on (1) what, if anything, he can do to stop her traveling for an abortion and (2) his legal remedies against the GP for failing to inform him.

Advise Bob.

9. Why is the use of public funds to advocate the Government's perspective during a referendum campaign considered to be constitutionally objectionable?

**END**