

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

1074

**Semester I Examinations, 2004/2005**

<b>Exam Code(s)</b>	2 CL
<b>Exam(s)</b>	2 <sup>nd</sup> Corporate Law
<b>Module Code(s)</b>	LW 302
<b>Module(s)</b>	Constitutional Law I
<b>Paper No.</b>	I
<b>Repeat Paper</b>	
<b>External Examiner(s)</b>	Prof. Colin Harvey
<b>Internal Examiner(s)</b>	Ms. Shivaun Quinlivan

**Instructions:** Please answer **TWO** questions.  
 All questions carry equal marks.  
**Please indicate on your answer books which questions have been attempted.**

<b>Duration</b>	<b>TWO HOURS</b>
<b>Department</b>	Law

<b><u>Requirements:</u></b>	
<b>Handout</b>	
<b>MCQ</b>	
<b>Statistical Tables</b>	
<b>Graph Paper</b>	
<b>Log Graph Paper</b>	
<b>Other Material</b>	Bunreacht na hÉireann, 1937.

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1. Your advice is sought by Jason, a leading member of CAMP (Campaign against Moral Promiscuity) who wishes to challenge the constitutionality of a recently-enacted statute which will allow persons aged fifteen and over to obtain contraceptives of all kinds without their parents' permission. He claims that the Act is in violation of Article 41 (the Family) of the Constitution. Advise Jason, a bachelor with no children, as to whether he is likely to be regarded by the High Court as having the requisite *locus standi* to take the action. (Students are not required to deal with the constitutional merits of the litigation, but simply to focus on the issue of standing).

2. **Write an essay on two of the following propositions:**

- a) "The designation of Irish as the 'national' and the 'first official' language is of little practical significance."
- b) "The system of Prospective Judicial Review provided for in Article 26 of the Irish Constitution requires fundamental reform before it can operate effectively."
- c) "There were legal as well as political reasons for amending Articles 2 and 3 of the Irish Constitution". Discuss.
- d) The introduction of the Referendum Commission has served only to stifle debate and to confuse the issues surrounding the proposed amendments. Do the Oireachtas have any other choices open to them in how they impart information in light of *McKenna v. An Taoiseach (No.2)* [1995] 2 I.R. 10. Discuss.
- e) A number of campaigners for the legalisation of cannabis wish to register themselves as a political party. Four of the campaigners wish to run for election and are choosing to run in Cork, Galway, Limerick and Dublin. When they attempt to register as a political party as the CLP (Cannabis Legalisation Party) they are refused permission to register. As they are refused the right to be deemed politically affiliated they must now comply with the requirements of the Electoral Amendment Act 2002 and must get 30 signatures before they register. The four candidates are very unhappy about this proposition and contact you for legal advice. Please advise them.

3. Irish constitutional history would suggest that the process of removing the Crown from the 1922 Constitution was a gradual one. How then can it be asserted that the Free State was sovereign and that no crown prerogatives survived the enactment of the Constitution? Refer to decided cases and academic commentaries in answering the question.

4. The Irish Minister for Fun publishes a bill to establish a statutory Commission for the Spreading of Joy on foot of the *EU Directive on Fun Without Frontiers*. According to the Bill, the Commission will be empowered to execute a wide variety of functions to be set out in a future Ministerial Order giving further effect to the Directive. The Minister seeks your advice on the following matters:

- a. Are there any limits on his power to prescribe the functions of the Commission in a Ministerial Order?;
- b. In implementing the bulk of the Directive by means of secondary legislation can the Minister change prior existing laws?;

5. In the wake of the Supreme Court's decisions in *Sinnott v. Minister for Education* and *TD v. Minister for Education* what future (if any) is there for socio economic rights?

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