

SEMESTER II EXAMINATIONS - SUMMER 1998/99

LL.B. - SECOND, THIRD & FOURTH YEARS  
B.A. (LEGAL SCIENCE) - THIRD YEAR  
OCCASIONAL STUDENTS

COMPARATIVE LAW (FREEDOM OF SPEECH) (LW376)

Professor C. Warbrick  
Mr. D. Driscoll

Time allowed: **TWO** hours. Erasmus students have **2½** Hours  
Answer **THREE** questions.

1. *"...(F)ree speech is so close to the heart of democratic organisation that if we do not have an appropriate theory for our law [concerning freedom of speech] , ... we really do not understand the society in which we live."*

Discuss this observation in the light of your understanding of theories of freedom of speech.

2. Eileen is a Minister of State in the Department of Justice. She is concerned at what she believes to be the growing violent nature of Irish society, and she believes that film and television violence is almost certainly its primary cause. She is considering advising the Minister to introduce legislation making the media portrayal of gratuitous violence a criminal offence. Before she writes a memorandum to the Minister, she wishes to consider whether social science research findings support her point of view. She consults you about the significance of the social science evidence.

Advise her.

3. Answer **EITHER** (a) **OR** (b):

(a) Briefly describe the law relating to obscenity in the United States.

(b) Compare and contrast the legislation in England and in Ireland concerning obscene publications.

OR

4. *"The extent to which a State prohibits the publication or utterance of blasphemous material is indicative of the attitude of that State to religion, to liberty and to morality. As Irish law stands on the verge of the twenty-first century, it is an issue which would benefit from clarification and reform."*

Discuss.

*p.t.o.*

5. John is an Irish national who is outraged by what he believes to be Ireland's ultra-liberal regime for the determination of refugee status. He believes that asylum-seekers, if granted refugee status, will have a negative effect on Irish culture. He is especially concerned about the influx of people who are neither white nor Christian. He decided to go on a lecturing tour, in which he proposes to denounce non-white and non-Christian asylum-seekers as "lazy swine" who are "lower than dogs" and whose value to humanity is, in John's opinion, "absolutely zero". He wants to spread his message throughout the common law world, and he makes plans to lecture in England and then in the United States after he finishes an Irish tour.

Ann, a sympathetic friend who is a solicitor, advises him that the public expression of his private views may render him liable to prosecution. Now worried, John asks your legal advice about the possible legal consequences of giving a lecture along the lines indicated.

Advise him about the legal regimes in Ireland, England and the United States.

6. Answer **EITHER** (a) **OR** (b):

- (a) *"In CHAPLINSKY v NEW HAMPSHIRE the [United States] Supreme Court held that 'fighting words' were outside the scope of First Amendment protection, and the Court defined 'fighting words' as 'those which by their very utterance inflict injury or tend to incite an immediate breach of the peace'. But the Supreme Court soon realised that giving a broad scope to the 'fighting words' doctrine would considerably encroach upon First Amendment protection. So the Court began to limit the 'fighting words' doctrine in a number of ways."*

Discuss.

**OR**

- (b) *"The existence of the offence of sedition is the hallmark of an unfree society."*

Discuss this observation in the light of your understanding of the law of sedition in Ireland, England and the United States.