



ICM

DECEMBER 2016

THE LAW OF EVIDENCE

Instructions to candidates:

- a) Time allowed: Three hours (plus an extra ten minutes' reading time at the start – do not write anything during this time)
 - b) Answer any FIVE questions
 - c) All questions carry equal marks. Marks for each question are shown in []
1. Comment on special measures directions in the context of examination, cross-examination and re-examination of witnesses, as follows:
 - a) When can the court give a special measures direction? [10]
 - b) What are the special measures available to the court? [10]
 2. Evaluate the effect of the Human Rights Act 1998 on the allocation of the burden of proof in criminal proceedings. [20]
 3. What is meant by the term '**litigation privilege**'? [20]
 4. What is meant by the '**judges invisible burden**'? [20]
 5. In the context of both civil and criminal law explain:
 - a) the common law doctrine of natural justice [10]
 - b) the requirement for a fair and public hearing under the European Convention on Human Rights [10]
 6. Discuss recent case law on the use of Turnbull directions on identification. [20]
 7. Bill and Ben are charged with stabbing their neighbour, Jack. Jack was found bleeding very heavily with a metal stake through his leg. Jack died a few hours later.
The prosecution allege Bill, Ben and Jack had a row over some boundary fencing; that Bill and Ben then stabbed Jack with the metal stake.
Bill says he left Ben and Jack discussing the boundary fence and he, Bill, went to the shops to buy materials.
Comment on the admissibility of the following evidence brought by the prosecution:
 - a) from Timothy (a postman passing by who called the ambulance when he saw Jack injured in the garden). Timothy's evidence is that he heard Jack say to Ben, "It was that bully Bill who did it". [10]
 - b) from Susan (Bill's daughter), that Bill had said to Susan a few hours after the accident, "Ben had nothing to do with it". Susan sent this in an email to her friend Helen. Susan was killed in a car accident before the trial. [10]
 8. Jim is charged with unlawful possession of controlled drugs. The drugs were found in his garden after a legally conducted raid. Jim has no previous convictions. Jim's case is that the drugs were "planted". Jim wants to know who has informed on him so that the police carried out the raid. Jim suspects his neighbour, Joan, a known drug user, of informing the police. Joan has held a grudge ever since Jim refused to buy heroin from Joan.
Advise Jim whether he is likely to succeed in an application to have the informer identified. [20]