Summer Examinations 2015

LAW200815N

Module Title Public Law
Level Five
Time Allowed Two hours

Instructions to students:

- Enter your student number not your name on all answer books.
- Answer two out of five questions.
- All questions are equally weighted.
- All questions should be answered with reference to decided cases and other relevant authorities.
- Begin each question in a separate answer book; label each answer book clearly with the number of the question you are answering.

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Answer **two** out of **five** questions.

1. ‘The approach of the courts in *Anisminic v. Foreign Compensation Commission (1969) 1 AER 208* and subsequent related cases has been criticised as a challenge to the supremacy of Parliament. It would be more appropriate, however, to criticise Parliament for its blatant disregard of the rule of law’.

   Critically examine the validity or otherwise of this argument.

2. In the context of judicial review, assess whether or not the courts have become too interventionist.

3. “Since the decision in *Council for Civil Service Unions v Minister for the Civil Service [1985] AC 374*, the principles of public law applicable to the exercise of common law and statutory powers have in many respects been assimilated. But there remain inevitable differences arising from the distinct origins of these powers.” (*R (Sandiford) v Secretary of State for Foreign and Commonwealth Affairs [2014] UKSC 44 [82]*)

   Critically discuss the accuracy or otherwise of the above quote.
4. Ray is the owner of a safari park. Recently, a security gate at the park was left open, resulting in the escape of several wild animals. Although all of the animals were recaptured and no-one was harmed, the incident prompts concerns over standards of safety and security at the park, especially as there have been other comparatively minor incidents in the past. As a result, the (hypothetical) National Wildlife Park Authority (NWPA) decides to launch an investigation. Under the terms of the relevant legislation, all safari parks require a safety certificate from the NWPA in order to operate. Ray has obtained a safety certificate from the NWPA, but a possible outcome of the investigation is the revocation of the certificate, in which case the park would have to close.

Doolittle, an inspector from the NWPA, arrives at the park to carry out the investigation. Ray asks for a meeting with Doolittle, but is informed by the inspector that his role is to conduct an inspection of the park and then submit a report and recommendations to the NWPA, who will make the final decision. Doolittle assures Ray that he will have an opportunity to “make representations” to the NWPA before any decision is made.

A few days after the inspection, Ray receives a letter from the NWPA enclosing a copy of the report which Doolittle has submitted. Doolittle’s report outlines a number of concerns, comments that these were “highlighted by the recent escape of a number of wild animals”, and recommends that Ray’s safety certificate should be revoked “until further notice”. The letter informs Ray that Doolittle’s recommendation will be considered at a meeting of the NWPA in two weeks’ time, and invites Ray to “submit in writing any comments you may wish to make”.

Ray immediately emails the NWPA and asks to attend the meeting, as he would like to respond in person to the report, and is particularly keen to explain to the NWPA “the circumstances surrounding the recent escape”. He receives an email response from the NWPA which refuses his request to attend the meeting, and explains that:

- NWPA meetings always have lengthy agendas, the inspector’s report is only one item on one such agenda, and that, “regrettably, it is not realistically possible to accommodate personal appearances in relation to any agenda items”.

- Regarding the most recent incident, the NWPA’s “overriding interest is in the fact that the escape occurred, which is not in dispute. The reasons as to why this was the case are of little or no importance”.

Ray decides that, if he is not allowed to attend the meeting, he is not prepared to submit any comments in writing. At the meeting, the NWPA decides to accept Doolittle’s recommendations in full. In a subsequent informal conversation with a former member of the NWPA, Ray is informed that the NWPA “invariably goes with” the recommendations of its inspectors.

Ray does not feel that he has been fairly treated by the NWPA. Advise him.
5. On 7\textsuperscript{th} May 2015, the Adder Party sweep to power in the UK general election. Among the seats that the Adder Party win at this election is the seat of Dunny-on-the-Wold, a constituency formerly held by Talbot MP of the Whig party. The election campaign in Dunny-on-the-Wold is a very acrimonious and heated one with the Adder Party candidate, Baldrick, winning the seat by a few votes only.

On the 14\textsuperscript{th} May 2015, Edmund and Colin, two Adder Party voters decide to celebrate the Adder Party’s victory by walking from the Adder Party’s headquarters to the town hall at the centre of Dunny-on-the-Wold. They are joined on this march by fifty fellow Adder Party voters. As they walked along, they hand out leaflets to passers- by, wave their banners and shout their support for the Adder Party’s main policy of cheaper turnips for all!

When Edmund, Colin and the rest of the Adder Party voters are a short distance away from the town hall, WPC Miggins stops them. She informs them that if they wish to demonstrate, they must hold their demonstration at that spot. There are many people shopping in the town centre that day whose activities would be disrupted if Edmund, Colin and the rest of the Adder Party voters go to the town hall. Moreover, at that time there are many supporters of the Whig party removing their former MP’s belongings from his office at the town hall.

Edmund and Colin ignore WPC Miggins’ request and keep walking towards the town hall, shouting loudly ‘Told you we would win the election based on issues not personalities! Our MP, Baldrick, is a rotten MP for a rotten constituency!’ As Edmund and Colin near the entrance to the town hall, they are engulfed by angry Whig supporters. WPC Miggins arrests Edmund and Colin.

Police reinforcements soon arrive and the remaining participants of Edmund and Colin’s demonstration are cordoned by the police into a side street near to the town hall. They all are released two hours later. George is one of the Adder Party supporters who is held in this cordon.

Advise Edmund, Colin and George on the legal issues arising in this hypothetical situation.

End of Paper