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Words								

Name _____

VCE LEGAL STUDIES 3/4 2016

CPAP Practice Examination No. 2

Reading time: 15 minutes

Writing time: 2 hours

QUESTION AND ANSWER BOOK

Structure of book

<i>Number of questions</i>	<i>Number of questions to be answered</i>	<i>Number of Marks</i>
11	11	70

- Students are permitted to bring into the practice examination: pens, pencils, highlighters, erasers, sharpeners and rulers.
- Students are NOT permitted to bring into the examination room: blank sheets of paper and/or white out liquid/tape.
- No calculator is allowed in this examination

Materials supplied

- Question and answer book of 18 pages.
- Additional space is available at the end of the book if you need extra paper to complete an answer

Instructions

- Write your **student number** and **name** in the space provided above on this page.
- All written responses must be in English.
- You should make use of stimulus material where it is included. However, it is not intended that this material will provide you with all the information to fully answer the question.

Students are NOT permitted to bring mobile phones and/or any other unauthorised electronic devices into the examination room

Question 3 (14 marks)

Answer the questions below, in relation to the following hypothetical scenario:

The High Court is hearing an appeal where a woman has been found guilty of murder because she robbed a store with her friend, and during the robbery her *friend* killed someone. Her lawyer argues that the relevant common law (which says someone is guilty of murder in these situations) has just been overruled in the United Kingdom, and that we should also overrule it in Australia. The High Court criticises the common law, but chooses to apply it and affirms the conviction. A majority of the justices say in the judgment that the common law has been in Australia for decades, and that it is parliament's job to override it now. They do say, however, that they might reconsider their ruling if a case came before them that showed the law had led to a serious injustice – even though in this case it had not.

- a. Is the precedent argued by the appellant's lawyer binding or persuasive on the High Court? Give a reason for your answer.

2 marks

- b. The scenario says, "The High Court criticises the common law[...]." What name is given to this act by judges?

1 mark

- c. Define the term 'ratio decidendi'. What part of the above scenario would be regarded as the *obiter dicta*?

2 marks

d. Explain what the impact on the law would be if the High Court agreed to overrule the common law.

2 marks

e. Apart from the relationship referred to in the scenario, describe **one other** feature of the relationship between the courts and parliament as law-makers.

3 marks

f. Analyse **one** strength of the courts as law-makers that might apply to the above scenario.

4 marks
