

AUSTRALIAN CONSTITUTIONAL LAW – MARCH 2009 EXAMINATION

Overall the standard of examination scripts was very pleasing. Students who failed did so due to an inability to recognise the issues being examined. Those students who scored well demonstrated a greater depth of knowledge of the relevant case law and their ability to debate the issues.

Question 1 – examined Constit. s51(i). Those students who scored poorly usually did so when attempting 1(b) which required consideration of the incidental scope of the power

Question 2 – this problem on Commonwealth/State relations was well answered. Those who failed could not recognise that the problem did relate to Commonwealth/State relations.

Question 3 – this problem on the corporations power, Constit. s51(xx), was well answered. Surprisingly some students did not mention WorkChoices and had no knowledge of recent case law developments in this area.

Question 4- this problem was only examining external affairs, Constit. s51(xxix) sadly a few students treated it as only examining Constit. s109. Overall the standard of answers would be improved by wider reading.

Question 5 – examined issues relating to Ch III of the Constit. requiring an understanding as to judicial/ non-judicial power and jurisdictional issues. Those who attempted this problem showed a good understanding that power and jurisdiction needed to be discussed.

Question 6 – a poorly answered problem by students failing to identify correctly the area being examined. Both schemes needed consideration under Constit. s90. Some students appeared to be answering the problem without having prepared for a Constit s90 problem.