

AUSTRALIAN CONSTITUTIONAL LAW – EXAMINER’S STATEMENT
SEPTEMBER 2009

Overall the standard was most satisfactory.

Question 1

This question was attempted by most students and answered well. There was no difficulty in recognising that the question involved Constit. s51(i). Part (a) was correctly answered whereas part (b) required consideration of the incidental scope and was not as well understood.

Question 2

This question was well answered by all who attempted it. The problem involved all aspects of Constit. s51(xx) with respect to a “trading corporation” and most students had a good understanding of current case law.

Question 3

This question was not as well answered by many students. Those who scored poorly did so because of a failure to consider whether the Commonwealth law was valid pursuant to Constit. s51(xxix). The question was really not one that involved Constit. s109 as the Commonwealth law was not valid.

Question 4

Those who scored poorly in relation to this question were those who failed to recognise that this question involved all aspects of Constit. s51(ii) and also required discussion of Constit. s55. Current case law on s55 was not used by many students.

Question 5

This question was only reasonably answered. Many students coped well with some aspects but failed to comprehensively deal with all the issues. This was particularly apparent in Part (a). Part (b) examined a jurisdictional issue which was, on the whole, understood and it was pleasing to see that the students were using current case law for Constit. s75(v).

Question 6

This question was not selected by most students. Those who attempted it had difficulty with (a) which required discussion of Commonwealth State relations, in particular, a State law applying to a Commonwealth entity. Also, many students failed to attempt and/or properly answer (b) which required consideration of the implied freedom of communication.