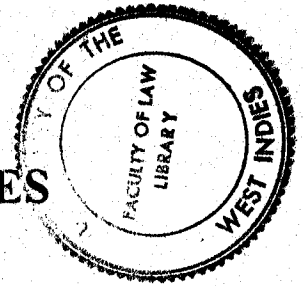




THE UNIVERSITY OF THE WEST INDIES



EXAMINATIONS OF APRIL/MAY 2002

CODE AND NAME OF COURSE: LA27A - ADMINISTRATIVE LAW

DATE AND TIME:

DURATION: 2 HOURS

INSTRUCTIONS TO CANDIDATES: This paper has 2 pages and 6 questions.

Answer **THREE (3)** questions. Answers may be confined to the law of any jurisdiction in the Commonwealth Caribbean unless the context indicates otherwise.

1. "The courts have generally frowned upon attempts by the legislature to shut out its supervisory jurisdiction by the use of ouster clauses, but they have sought to justify this approach by claiming that in so doing they are carrying out the will of the legislature in the first place."

Discuss.

2. "The common law position on the duty to state reasons is now the exception rather than the general rule."

Discuss.

3. "In modern times we have come to recognize two separate fields of law: one of private law, the other of public law. Private law recognizes the affairs of subjects as between themselves. Public law regulates the affairs of subjects *vis-a-vis* public authorities."
(Per Lord Denning in *O'Reilly v. Muckman*, [1987])

Discuss the above statement in the light of modern developments in Public Law.

4. "There is no doubt whatsoever that both procedural and substantive legitimate expectations are now fully protected by the courts through the power of judicial review."

Do you agree with this statement and why?

5. The Babylonia Liquor Licensing Authority (BLLA) inform Puntan of their decision to refuse his application for a new liquor licence on the following grounds:
- (a) they were advised in writing by Puntan's landlord that Puntan was duly and properly served with a notice to quit regarding the premises in question. Puntan's tenancy is not subject to any Rent Restriction legislation;
 - (b) Puntan has three (3) previous convictions for minor traffic violations;
 - (c) Babylonia, as a deeply religious community, already has a sufficient number of licensed liquor establishments;
 - (d) the Commissioner of Police recommends that Puntan's application be rejected on security grounds.

BLLA has wide discretionary authority under the pertinent legislation to grant or refuse applications for licences.

Puntan seeks your advice about challenging BLLA's decision. Advise him.

6. The Open Fields Act of Wonderland requires any person wishing to play a cricket match to obtain a licence from the Parish Council, which may refuse a licence if it considers the facilities to be unsatisfactory or the players to be indisciplined. There is a right of appeal to an Appeal Tribunal against a refusal to grant permission.

X applies to the Squeamish Parish Council (SPC) for a licence to use their playing field for an important match. The SPC asks Tom, an official of the council, to make inquiries. Tom conducts a secret review of the teams which are to compete and submits a report. The report states that the coaches of the teams do not have proper qualifications and that an accident occurred on the field five years previously when a fielder fell and seriously injured his leg.

The SPC writes to X to provide further details of the qualifications of the two coaches and to comment on the state of the field. X replies to the letter but also asks for an opportunity to appear in person before the SPC. The SPC refuses his request. It proceeds to reject X's application.

X appeals to the Appeal Tribunal which agrees to hear him, but refuses to allow his manager or the two coaches to give evidence. At the Tribunal hearing, X is shown Tom's report and is asked to comment on it. He does so. The Tribunal rejects X's appeal.

X has now discovered that a son of the Chairman of the SPC died in an accident on the playing field five years ago.

Advise X.