

DEGREE OF BACHELOR OF LAWS

M9116 PUBLIC LAW 1 (RESIT EXAM PAPER)

Date: Thursday 27th July 2023 Time: 9.30am-11.30am

Percentage of final mark carried by this paper: 70%

Materials permitted into the Examination Hall: NONE

Please answer TWO questions

PLEASE TURN OVER

1.- “A constitution is not the act of a government, but of a people constituting a government; and government without a constitution, is power without a right. A constitution is the property of a nation, and not of those who exercise the government. All the constitutions of America are declared to be established on the authority of the people. In France, the word nation is used instead of the people; but in both cases, a constitution is a thing antecedent to the government, and always distinct therefrom.” (Paine, Thomas (1791), *Rights of Man*, (Pelican Classics, 1969), pp. 207 and 213)

Thomas Paine took the view that the UK lacked a constitution. Do you agree? Discuss Paine’s conception of a constitution and its fit to the UK constitution.

2.- “The rule of law enforced by the courts is the ultimate controlling factor on which our constitution is based.” (*Jackson v Her Majesty's Attorney General* [2005] UKHL 56, [107] per Lord Hope). Discuss with reference to the doctrine of parliamentary sovereignty.

PLEASE TURN OVER

3.- “Devolution is a process. It is not an event and neither is it a journey with a fixed end point.” (Ron Davies, *Devolution: A Process Not an Event*, Cardiff: Institute of Welsh Affairs, 1998, p. 15) Discuss with reference to the evolution of the territorial constitution.

4.- Compare and contrast the organization and competence of the UK and Scottish Parliament.

5.- “Whether a particular provision or provisions should be included in primary or delegated legislation ... is pre-eminently a matter of political judgment” (*Secretary of State for the Environment, Food and Rural Affairs v Downs* [2009] EWCA Civ 664, [103] per Sullivan LJ). Discuss with reference to the distribution of law-making powers between government and Parliament and the constitutional challenges of delegated legislation.

END OF PAPER

INTERNAL EXAMINERS: DR PABLO GREZ HIDALGO /

DR ADAM HARKENS

EXTERNAL EXAMINER: DR TARIK OLCAY, UNIVERSITY OF DUNDEE