

LL.M. DEGREE I SEMESTER EXAMINATION, NOVEMBER 2008

SLS 2102 FOUNDATIONS OF CONTRACTUAL LIABILITY

Time: 3 Hours

Maximum marks : 50

(All questions carry EQUAL marks)

(5 x 10 = 50)

- I. A. "In the peculiar way of the common law, the establishment of a unified remedy for all types of contract action was the catalyst for the development of general principles of contract law". Explain by tracing briefly the history of the evolution of English Contract Law.
OR
- B. What do you conceive to be the function of the law of contracts, and of the Courts in adjudicating disputes arising from contracts? Is it merely to ensure that people honour their promises or agreements, or are there deeper social and economic objectives as well?
- II. A. "It is necessary to compromise between enforcing all promises and enforcing no promises, and as a result we have special classes of promises to which this form of social control is applied and which are 'contracts'." Do you think that such a compromise is necessary? How does English law approach this compromise? Do you think it is satisfactory? Critically examine Prof.P.S.Atiyah's view that we must look not to a single reason (i.e. consideration) but to the reasons (or considerations) which make it just or desirable to enforce promises.
OR
- B. Explain the nature and scope of the doctrine of 'promissory estoppel' . What are the requirements for the operation of the doctrine? How does it differ from the doctrine of 'proprietary estoppel'?
- III. A. What is meant by the expressions, 'freedom of contract' and 'sanctity of contract'? On what premises are these ideals founded? Discuss the modern factors or trends which make rigid adherence to these ideals unrealistic.
OR
- B. The doctrine of reasonable notice has been criticized upon the ground that it does not protect the public from the insertion of particularly unreasonable clauses in standard form contracts. Do you agree? If so, what remedy would you suggest?
- IV. A. Where a breach of contract is not fundamental, what canon of construction is applicable to an exemption clause which purports to exclude or to reduce liability for that breach? What canon of construction is applicable to fundamental breach?
OR
- B. "Terms may be implied into contracts from three principal sources, namely statute, custom and the Courts". Elucidate.
- V. A. "An 'ultra vires' contract which is beyond the capacity of the company and therefore wholly void should be distinguished from a contract made by the exercise of a power which the company undoubtedly has but for a 'purpose' which is unauthorized." Explain. What are the recent changes effected in England in the application of the doctrine of 'ultra vires' for the protection of third parties dealing with a company?
OR
- B. Critically evaluate Richard Posner's view that expectation damages are necessary because an award of pure reliance losses would not be sufficient to deter the promisor from breaching his contract in cases where it would be inefficient to do so. Do you think that economics provides solid arguments for the moral and legal rules underlying executory contracts?