Overall the standard was quite satisfactory, indeed, pleasantly so. As in 2017, those exam candidates who achieve high marks were those who engaged, directly, with the actual facts of the problem and then applied the law, rather than those regurgitated enormous amounts of (sometimes irrelevant) authorities. I had, on several occasions and by memorandum, informed the students that they should focus on the facts - and not regurgitating cases - as the best way to answer the problem questions. This seems to have worked, to my pleasant surprise. Moreover, the number of people using 2 of the 20 page exam booklets, when no more than one exam booklet is ever required, was pleasantly fewer than the last exams.

**QUESTION 1**

This question was answered, overall, mostly to a good standard. The obvious Kable and IFTC points were made. Moreover, the answers comprehended that the question was as to a State law, not a law of the Commonwealth. There were some good points made as to the question's control order, in respect of general fairness, legality and the constitutional design. There was less understanding of how the executive applies for such orders as a normal incident of government operations. There was a good understanding of the High Court's role in the constitution, which I had not expected, to be quite honest.

**QUESTION 2**

These answers were very good. There was excellent discussion of the defence and external affairs' powers, and of the Communist Party case and the Tasmanian Dams case. The canvassing of national security powers and the Thomas v Mowbray questions was very well done. I was very impressed by the level of detail that answers got into, especially on the issue of the proposed identity card. Most answers dealt satisfactorily with the issues raised by Chapter III and the introduction of an inquisitorial criminal law system, albeit too few noted the obvious s80 issue. The s109 question was answered mostly well but in a few cases
surprisingly abysmally, considering how often s109 issues has been covered in lectures.

QUESTION 3

This question was answered, mostly, quite well. I was quite shocked by how little students knew of the executive powers and what executives actually do. The executive power had been gone over again and again in the course. There were good answers to questions on issues of preferences, levies and taxes, as well as fees, but surprised by how few students new what were issues for States and what were issues for Territories. The issue of retrospective prosecutions was well handled, mostly, albeit most seem to struggle to distinguish between civil and criminal prosecutions.

QUESTION 4

This problem was answered quite well – surprisingly so. The question asked for advice on the key issues arising from differing criminal provisions of NSW and Commonwealth law. My main issue is how few students were clear on the Kable and IFTC points that were raised by a forfeiture issue. Also, the understanding of when a s109 issue really does arise. But, overall, this was done well and reassuringly so.

QUESTION 5

This was quite a complex question and I was surprised by the degree to which it was answered as well as it was answered. The exam candidates seem to have paid attention to the facts and were able to distinguish between the parts of the proposed law that is valid and those that raise difficult issues. The religious freedom issue was not as well discussed as it could be and there will need to be new focus on the Krygger v Williams, Adelaide Company of Jehovah's Witnesses and the DOGS Case lines of authority. Additionally, there needs to be a new emphasis on the breadth of the Corporations Power. But, overall, this was very well done.
QUESTION 6

This question was based on a Commonwealth law that closely mimicked legislation relevant to the ACTV, Lange, Canavan and Nash decisions. The aim was test to see how much the students had grasped the Parliament, the qualifications for election to the House or Senate, and the lawfulness of restrictions on political candidacy, political statements, and political debate. I was pleasantly surprised by how well the students doing this question actually did, albeit we had covered the then current s44 cases.

Conclusion

I enjoyed marking the vast majority of the exam papers and was, as I said, pleasantly surprised. In 2018, I expect to focus on the federalism and "freedoms" Issues.

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