

ESSAY TOPICS

You may submit a research essay on **one** of the following questions:

1. If a person is in occupation of land and that occupation amounts to possession, she acquires a title to that land. After the relevant limitation period has expired, she acquires the best title to the land. However, an indigenous person in occupation of land when the common law was introduced may not acquire a title by possession, notwithstanding Toohey J's comment that "since the Meriam people became British subjects immediately on annexation, they would seem to have then acquired an estate in fee simple." *Mabo v Queensland (No 2)* (1992) 175 CLR 1, 211 Toohey J.

Critically discuss the extent to which the Meriam people might be said to be in possession of the Murray Islands and any title they may hold as a consequence.

(In your answer you may consider whether the same principles would apply to other indigenous groups on the Australian mainland.)

2. If the essence of property is to encapsulate rights of use, access and control discuss how these rights have been defined and interpreted in recent case law and/or statute in relation to **any two** of the following:
 - a. Leases
 - b. Easements
 - c. Profits a prendre
 - d. Restrictive covenants
 - e. Native title
 - f. Mortgages and other security interests
3. "'Property" is not a value neutral phenomenon. "Property" in a resource stops where the infringement of more basic human rights and freedoms begins.'

Kevin Gray, 'Property in Thin Air' [1991] 50(2) *Cambridge Law Journal* 252-307 at 297

Critically discuss the above proposition in relation to changing conceptions of property. Illustrate your answer using arguments and concepts drawn from the environmental, natural resources and/or social spheres.

4. As His Honour, Justice Gummow has stated, 'Traditional concepts of English land law, although radically affected in their country of origin by the *Law of Property Act* 1925 (UK), may still exert in this country a fascination beyond their utility in instruction for the task at hand... The task at hand involves an appreciation of the significance of the unique developments, not only in the common law, but also in statute, which mark the law of real property in Australia...'

Wik Peoples v The State of Queensland & Others (Wik) (1996) 141 ALR 129

Critically discuss the extent to which the scheme of 'Crown lands' and their disposition within Australia represents a unique development. Illustrate your answer using examples from relevant statutes and case law.

5. You may select a topic of your own choosing. If you wish to select your own topic, you must submit an essay proposal to your own stream teacher by 4th April 2005 setting out the following matters:
 - a. The topic and research question;
 - b. A 300 word outline describing the research question and main arguments;
 - c. An indicative bibliography containing at least 5 references relevant to the topic; and
 - d. A short statement of how your topic falls within the scope of the subject with reference to specific sections of the reading guide.

The property teachers will meet to approve topics and you will be notified by 8th April 2005 whether your nominated topic is suitable. To obtain approval, your topic must be closely related to the topics and themes of the Property I course.

NESB STUDENTS

If English is not your first language you may obtain assistance with the written expression of your essay from:

- the Language and Learning Skills Unit (LLSU), 723 Swanston Street (near KFC and 7-Eleven on the corner of Grattan Street; phone 03 8344 0930; or
- Mr Nathen Rhead, the language and learning skills advisor in the Faculty of Law. You can contact Nathen in the UGS office in person or by phone 03 8344 4475.

SUBMISSION REQUIREMENTS

Hard copy submission

Please note that a failure to comply with the submission requirements may result in a reduction in the mark for your essay.

The essay must be submitted in the following format:

- 1 The essay must be typed or printed by computer on plain white A4 paper using only one side of each page. Margins on each page must be at least 3cms.
- 2 The pages must be numbered consecutively.
- 3 The essay must use either footnotes or endnotes. These notes are primarily for **citations and references only** and should not contain any part of your substantive argument.