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NORMAN MANLEY LAW SCHOOL  
Council of Legal Education

LEGAL EDUCATION CERTIFICATE  
FIRST YEAR SUPPLEMENTARY EXAMINATIONS, 1987

CRIMINAL PRACTICE AND PROCEDURE  
(Tuesday, August 11, 1987)

Instructions to Students

- a) Time: 3½ hours
  - b) Answer FIVE (5) questions only.
  - c) In answering any question a candidate may reply by reference to the Law of any Commonwealth Caribbean Territory, but must state at the beginning of the answer the name of the relevant territory.
  - d) It is unnecessary to transcribe the questions you attempt.
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QUESTION 1

B, a businessman, lives with his family at 10 Bond Crescent in Capital City. About 20 yards behind B's dwelling house is a warehouse which he had recently built.

On the 10th January, 1987 B and his family retired to bed around 10:00 p.m. Shortly after he had retired B heard footsteps outside. There was a bright light outside. He peeped through a window and saw three men. He recognised one of the men as CD whom he had known for the past 5 years. B shouted "thief!". X, B's neighbour who was awakened by B's shout, saw 3 men running from B's warehouse towards a jeep parked on the lane behind the warehouse. Each had something on his shoulder. They entered the jeep which sped away.

B went to the warehouse and observed that a window was broken. He missed 20 rolls of cloth and three boxes of soap.

On January 12th, Constable Goodman went to the home of OP where he saw OP and CD. In a room were 18 rolls of cloth and 1 box of soap. OP told Constable Goodman that the things in the room were his and that he had bought them from CD. CD denied selling / to OP. The rolls of cloth and the box of soap were positively identified by B as his property. CD and OP are arrested and charged.

Draft the indictment to be presented in the Supreme Court/High Court.

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QUESTION 2

Wendy Soft, a 12 year old schoolgirl is a prosecution witness in a murder case. A month ago at a preliminary enquiry Wendy testified under cross-examination that she was ignorant of the existence of God, but that she understood the duty and importance of telling the truth.

The case now comes up for trial in the Circuit Court. Wendy is called and goes into the witness box.

How should the trial judge proceed, and what is his duty?

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QUESTION 3

C was charged on an indictment with rape. At the end of the prosecution's case counsel for the defence submitted that the defendant should not be called upon to answer the charge as the prosecution had failed to establish a prima facie case.

The trial judge asked the jury to say whether or not they wished to hear further evidence. The foreman replied that the jury wanted to hear the accused's defence. The trial judge told the jury that he was entirely in agreement with them but that he was prepared to stop the case if the jury had so desired. The trial proceeded. C was convicted. He now wishes to appeal.

Advise him whether or not he needs leave to appeal and as to his chances of success on appeal.

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QUESTION 4

Write notes on any THREE (3) of the following:

- i) Visit to locus in quo.
  - ii) Preventive Detention.
  - iii) Discharge of jury.
  - iv) Re-opening the case for the prosecution.
  - v) The procedure when an accused on arraignment stands mute.
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QUESTION 5

State the classification of crimes and indicate the procedural differences between trials of felonies and misdemeanours.

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QUESTION 6

Blanco was convicted by a jury in the Circuit Court on two counts of an indictment, one of which charged him with shooting with intent and the other with illegal possession of firearm. The record of the proceedings discloses that the jury retired under sworn guard at 11:00 a.m. and returned at 11:30 a.m. When the verdict of the jury was being taken the following exchanges occurred:

Registrar: Mr. Foreman and members of the jury, have you arrived at your verdict?

Foreman: Yes, we have.

Registrar: Is your verdict unanimous, that is, are you all agreed?

Foreman: Yes, unanimous on one count.

Registrar: Do you find the accused guilty or not guilty of count one which charges him with shooting with intent?

Foreman: We find him guilty on the first count.

Registrar: Do you find him guilty or not guilty of count two which charges him with illegal possession of firearm?

Foreman: Guilty

Registrar: Mr. Foreman and members of the jury you say the accused is guilty on counts 1 and 2/is your verdict and so say you all?

Foreman: Yes.

Blanco wishes to know whether or not he has a good ground of appeal and the likely order of the Court of Appeal should he succeed.

Advise him.

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QUESTION 7

On the 10th of February, 1987 at about 3 p.m. Mrs. Rhooms was walking in the Public Gardens. A man whom she had known before as Romeo approached her and spoke to her. She ignored him. He shouted "Hey girl you don't hear me talking to you?" She did not respond. Romeo took a knife from his pocket and pointing it at her said, "Give me all you have in the handbag". He pulled her handbag from under her arm, opened it and took out \$30.00. He threw the handbag at her feet and ran away with the money.

She made a report to the police and gave a written statement. A few days after, Romeo surrendered himself to the police.

Outline the procedural steps that should be taken to have Romeo committed to stand his trial at the Circuit Court.

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QUESTION 8

A statute provides that "Every person, before he shall take, kill or pursue any bird shall take out a licence so to do and if any person shall do any such act as herein before mentioned without having duly taken out and having in force such licence as aforesaid shall be guilty of an offence punishable summarily and on conviction liable to a fine of \$40.00".

Hunter, who did not hold such a licence, was shooting birds on Farmer's property with the latter's permission. He saw three (3) birds comfortably perched on the branches of a tree and fired three (3) shots. One shot missed. The second hit and killed one of the birds after it had flown from the tree. The third shot hit and killed the other bird when it had left Farmer's land and was on the neighbouring land.

An information was preferred against Hunter charging that he "unlawfully did take and kill and pursue three birds without a licence" contrary to the statute. Hunter was convicted and now wishes to appeal.

Write an opinion as to Hunter's chances of success on appeal.

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