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LEGAL EDUCATION CERTIFICATE
FIRST YEAR SUPPLEMENTARY EXAMINATIONS, 1989

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CRIMINAL PRACTICE AND PROCEDURE

(Tuesday, August 22, 1989)

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

Miss Rhooms was walking in Hope Gardens. A man whom she knew as Romeo approached her and spoke to her. She ignored him. "Hey, you don't hear me talking to you?" he asked. She did not reply. 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 removed \$50. He then threw the handbag at her feet and ran away with the money. She screamed "thief, thief". Two boys, Junior and Jack, who were nearby and saw what had happened, tried to block the path of Romeo who slashed at them with the knife. Both boys were wounded.

Miss Rhooms and the two boys went to the police station and made reports. Romeo was subsequently apprehended and charged.

Draft the indictment for trial in the Supreme Court/High Court.

QUESTION 2

Write notes on any THREE of the following:

- (i) motion in arrest of judgment;
- (ii) no case submission;
- (iii) suspended sentence;
- (iv) subpoena duces tecum;
- (v) de-murrer

QUESTION 3

Barr and Wills were at a bar drinking. When they were told by the attendant that it was closing time, they refused to leave and attacked the attendant injuring him. They were arrested, charged and released on bail. Wills tried to persuade the attendant to change his account as to what had happened, offering a financial reward. Barr and Wills were indicted for assault occasioning bodily harm (Count 1) and Wills for attempting to pervert the course of justice (Count 2).

Applications made on behalf of both defendants that Count 2 should be severed, were refused. They were convicted as charged and appealed, contending that the trial Judge erred in not ordering severance.

Advise them as to their chances of success.

QUESTION 4

Bacchus was drunk. While he was being escorted by a constable from a bar in which he had been drinking for the greater part of the afternoon, he grabbed the constable's revolver. He aimed and fired at a juke-box damaging it. He was charged with damaging the juke-box and with illegal possession of a firearm.

When the Registrar took the verdicts of the jury, they returned a verdict of guilty of malicious damage to property and one of not guilty of illegal possession of firearm.

The trial Judge told the jury that he would not accept the verdicts as they were in his view clearly inconsistent having regard to the evidence.

The jury again went out, returned after one hour and informed the Court that they were insisting on the verdicts given. The Judge refused to accept their verdicts and discharged them.

Bacchus is re-arraigned for the same offences and seeks your advice.

Advise him.

QUESTION 5

Answer either (a) or (b).

(a) Set out the procedure in appealing a conviction in the Petty Sessions Court and the Supreme Court/High Court.

(b) Write notes on THREE of the following:

- (i) preliminary enquiry;
 - (ii) consecutive and concurrent sentences;
 - (iii) motion to quash indictment;
 - (iv) summary trial;
 - (v) recalling a witness.
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QUESTION 6

John Stokes was indicted before the Magistrate for wounding (Count 1) and malicious damage to property (Count 2). He was convicted on Count 1 and acquitted on Count 2.

After sentence was passed on Count 1, it was brought to the

attention of the Magistrate that the virtual complainant in respect of both counts had neither taken the oath nor affirmed. The Magistrate then recalled the case and was about to hear the evidence afresh when Counsel for Stokes entered the pleas of autrefois acquit and autrefois convict.

Advise the Magistrate.

QUESTION 7

Head was indicted in the Circuit Court for burglary and larceny - Count 1, and receiving stolen goods - Count 2. He pleaded not guilty to both counts and was given in charge of the jury.

During the course of the trial, Head changed his plea in respect of Count 2 to one of guilty. The trial proceeded on Count 1. The jury found Head not guilty on Count 1; their verdict was not taken in respect of Count 2. The trial Judge sentenced Head to twelve months imprisonment at hard labour. Was there an irregularity?

- (i) Advise Head.
 - (ii) Would the position be different if Head had pleaded guilty to Count 2 on arraignment?
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QUESTION 8

Farley was convicted in the Circuit Court for murder. The shorthand writer's transcript of what transpired at the trial is as follows:

"Verdict

Registrar: Mr. Foreman please stand. Members of the jury have you arrived at your verdict?

Foreman: Yes.

Q. : Is your verdict unanimous? That is to say are you agreed?

A. : Yes.

Q. : How say you is the prisoner guilty of murder?

A. : Guilty.

(Proclamation)

Registrar: How say you is the prisoner guilty or not guilty of manslaughter?

Foreman: Not guilty of manslaughter. "

Farley was sentenced to death. He now wishes to appeal and asks whether or not he has a good ground.

Advise him.
