

NORMAN MANLEY LAW SCHOOL  
COUNCIL OF LEGAL EDUCATION

LEGAL EDUCATION CERTIFICATE  
FIRST YEAR SUPPLEMENTARY EXAMINATIONS, 1992

CRIMINAL PRACTICE AND PROCEDURE

(Friday, August 14, 1992)

Instructions to Students

- a) Time: 3 1/2 hours
- b) Answer FIVE questions only
- c) In answering any question a student 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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MONA, KINGSTON, 7. JAMAICA

**QUESTION 1**

On the 14th April, 1992 Sankar retired to bed around 10:00 p.m. She had earlier secured all the windows and doors of her house. In the early hours of the morning of the 15th April three men entered her bedroom. They aroused her from slumber and covered her mouth while some pieces of jewellery were removed from her person. Other pieces of jewellery and cash (\$100) were taken from a bag in the room.

On the men's departure Sankar went and spoke to her next door neighbour who accompanied her to the Old Street Police Station. At the station she made a report. A few days later she went to an identification parade and identified Raleigh as one of the three men who came into her room on the 15th of April. Raleigh was arrested and charged.

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

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**QUESTION 2**

Rod, on arraignment, entered a plea of autrefois acquit. A jury was empanelled after Rod had exercised his right of peremptory challenge. The plea of autrefois acquit was rejected. Counsel for Rod then submitted that for the actual trial of the charges Rod was entitled to an additional right of challenge of the jury, or alternatively, to have a fresh jury empanelled.

The learned trial judge over-ruled this submission and the trial proceeded before the same jury. Rod was convicted and

sentenced.

Rod wishes to appeal and wants to know if the trial judge erred in over-ruling counsel's submission.

Advise him.

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**QUESTION 3**

W and Y were drinking at a bar. 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.

While on bail, W went to the attendant and tried to persuade him to change his account as to what had happened, offering him a financial reward. W and Y are charged on an indictment with assault occasioning actual bodily harm (count 1) and W with attempting to pervert the course of justice (count 2). Applications made on behalf of both accused persons that count 2 should be severed, were refused.

They were convicted as charged and sentenced.

Advise them as to whether the trial judge erred in not ordering severance.

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**QUESTION 4**

An indictment was preferred against F in the Supreme/High Court charging him with larceny of a cheque drawn on a bank for \$10,000 and payable to one G. Before F was arraigned, Counsel for the prosecution applied to amend the indictment by adding a second

count for receiving stolen goods, to wit, the abovementioned cheque.

Counsel for F indicated that he was taking no objection provided Counsel for the prosecution prepare a new indictment embodying the new count. Counsel for the prosecution did not do this but instead the additional count was written on the last page of the original indictment and the trial judge allowed the trial to proceed on the indictment as amended. F was convicted on the count of receiving stolen goods whereupon his Counsel moved in arrest of judgment and verdict of the jury. The trial judge declined to grant the motion and proceeded to sentence F.

F wishes to appeal.

Advise him of his chances of success.

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#### QUESTION 5

Write notes on THREE of the following -

- (a) majority verdict;
- (b) preventive detention;
- (c) the procedure where a woman convicted of an offence punishable with death alleges that she is pregnant;
- (d) pardon;
- (e) appeals from the Petty Sessions Court.

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#### QUESTION 6

An Act provides that "parking a vehicle elsewhere than in a place provided for that purpose or otherwise than in the manner

required by an authorised officer" is prohibited.

An information charged Domo that he "on the 10th day of April 1992 in the parish of Kingston, unlawfully parked a motor vehicle elsewhere than in a place provided for that purpose and in a manner required by an authorised officer".

Write an opinion as to whether or not the information is bad for duplicity.

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#### QUESTION 7

A, B, C and D were driving their motor cycles abreast along a public road and by driving in that formation had been an annoyance to other road users. They entered a 30 m.p.h. speed limit zone together, each cyclist travelling at 50 m.p.h. D collided with a pedestrian who was knocked to the ground.

Four separate informations/charges were laid charging each of them with driving at a speed exceeding the speed limit. A fifth information/charge was preferred against D for dangerous driving.

All these offences are triable summarily before a Magistrate. At their trial in the Magistrate's Court the prosecution seeks leave to try all five informations together. Counsel for the defence objects contending that the Magistrate has no jurisdiction so to do.

How should the Magistrate decide?

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QUESTION 8

Archer and Selmes were indicted for murder. On the 10th January, 1991, the jury found Archer guilty of manslaughter and Selmes guilty of murder. Archer was sentenced to be imprisoned for life and Selmes to death. On the 13th January, 1991, Archer filed a notice of appeal against conviction and sentence.

On the 15th January, 1991, Counsel advised Archer against pursuing the appeal.

As a consequence two days later, Archer filed with the Registrar a notice of abandonment of his appeal. However, Archer having been advised by senior Counsel that he had a good ground of appeal, sent on the 18th January, 1991, another notice of appeal he stated to the Registrar in which he stated that he wished to re-open the appeal and was therefore withdrawing the notice of abandonment.

On the 30th January, 1991, Selmes filed a notice of intention to apply for an extension of time within which to appeal the conviction.

They both seek your advice as to the likelihood of their appeals being heard.

Advise them.

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