

COUNCIL OF LEGAL EDUCATION

NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE  
FIRST-YEAR SUPPLEMENTARY EXAMINATIONS, 2001

CRIMINAL PRACTICE AND PROCEDURE

(TUESDAY, AUGUST 7, 2001)

Instructions to Students

- (a) Time: 3 ½ hours
- (b) Answer **FIVE** questions.
- (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.

---

PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.

**QUESTION 1**

Pauline Rainford was going home from work in the early evening of March 20, 2001. As she reached a bridge in the area of Rousseau Road, six boys came from the bridge, surrounded her, menaced her with knives and took away her handbag. Five of the boys went away but the sixth, the accused W, stayed on and was violent to her cutting her on her finger. The fact that he stayed on gave her an opportunity to be able to identify him.

She made a report to her father and described W. Her father with the assistance of others held W.

Ms. Rainford identified W. Later on that day, John B. was pointed out by her as one of her other assailants. John B and W were arrested and charged.

Draft an indictment to be preferred in the Supreme/High Court.

---

**QUESTION 2**

D.C. was convicted in the High/Supreme Court on an indictment containing four counts. The first charged him with arson contrary to section 42 of The Malicious Injuries to Property Act in that he unlawfully set fire to a house. The second count charged him with arson of the same house with intent to prejudice the insurers contrary to section 4 of the same Act. The third count charged him with attempting to obtain money by false pretences from the insurers in respect of the policy of insurance on the house and the fourth count charged him with obtaining money by false pretences from other insurers, by pretending, that a mink coat

had been stolen from his motor car and that he was entitled to payment under the policy in respect of the alleged loss.

- (a) Write an opinion as to whether or not the counts were properly joined.
  - (b) If the time within which to appeal had expired, what courses are open to challenge the validity of the indictment?
- 

### QUESTION 3

Answer both parts.

- (a) Joe Hanky was charged on an indictment with having carnal knowledge of a girl under 16 years of age. On arraignment Hanky pleaded not guilty. After the girl had given evidence and in the course of trial, Hanky stood and made a confession of guilt. The judge told the jury that in the circumstances he would not proceed further with the trial. The jury was discharged. Hanky was sentenced to two years imprisonment and suspended for one year.

Hanky wants to know if the above facts disclose any procedural irregularity. Advise him.

- (b) E was charged on an indictment for wounding with intent to cause grievous bodily harm. The trial judge approved the acceptance of a plea of guilty to the lesser charge of unlawful wounding and the plea was entered. Upon hearing the background to the charges during the opening, the judge changed his mind and directed the trial to proceed. E was

convicted of the wounding with intent charge. He wants to know if there was an irregularity.

Advise him.

---

#### QUESTION 4

Liddle was convicted of rape and sentenced to five years imprisonment. On conclusion of the summing-up, the jury retired to consider their verdict. Some time later they sent a message to the judge saying that they desired evidence on the question whether the clinic, where the offence was alleged to have been committed, would have been empty or occupied at the material time. The judge recalled the doctor, who had given evidence, but only as to the physical condition of the girl concerned. The doctor testified that at the time when the offence was committed no one would have been at the clinic. The jury retired again for a short time and then brought in a verdict of guilty.

Write an opinion as to whether or not the judge was right in granting the request of the jury.

---

#### QUESTION 5

Colly was charged on an indictment containing only one count – wounding with intent to do grievous bodily harm contrary to section 20 of the Offences Against The Person Act. At the end of the summing-up the jury were directed that they

must return a verdict either of guilty of wounding with intent or unlawful wounding (contrary to section 22) or not guilty. They returned to court after retiring stating that they were not unanimous that it was wounding with intent. They were then given the requisite direction on majority verdicts but the requisite majority was not achieved. After legal argument the judge granted an application by the prosecution to amend the indictment by adding a second count of unlawful wounding contrary to section 22 of the Act. Colly was convicted of unlawful wounding.

He wants to know whether or not the trial judge erred in granting the application to amend. Advise him.

---

### QUESTION 6

Answer both parts.

- (a) Kray is charged with robbery with aggravation. It is alleged that he and others being armed with guns robbed the tellers of the ABC Bank of a certain sum of money. You have been assigned to defend Kray. During the empanelling of the jury Kray tells you that one of the jurors called to the jury box is related to a teller employed at a different branch of the bank. You have already exhausted your peremptory challenges. What course is now open to you?
- (b) At the summary trial of Whitely, a witness 10 years of age is called to the witness box. He is the only witness for the prosecution.

Advise the magistrate as to the procedure she should follow.

**QUESTION 7**

Henry was indicted on three counts of wounding with intent, larceny of a motor car and receiving the said motor car knowing it to have been stolen. On his arraignment, Henry pleaded not guilty to the offence of wounding with intent but guilty to the offence of unlawful wounding and not guilty to the offence of larceny but guilty to the offence of receiving the said motor car knowing it to have been stolen. The trial judge rejected Henry's plea of guilty to the offence of unlawful wounding. The trial thereafter proceeded on the counts of wounding with intent and larceny of a motor car. The jury acquitted Henry on both counts. The trial judge nevertheless proceeded to sentence Henry in respect of the offences to which he had originally pleaded guilty. Henry contends that the trial judge was wrong to sentence him as he did and seeks your advice.

Advise him.

---

**QUESTION 8**

Answer both parts.

- (a) At the start of the preliminary enquiry into a charge of murder against Kevon, the charge is read to him. Kevon is alleged to have stabbed his girlfriend in a fit of jealous rage and even though he is told that he is not required to plead, Kevon says, "Ah guilty, don't bother with a trial, ah ready to dead."

The magistrate is in a quandary as to how to proceed.

Advise the magistrate as to the procedure to be followed.

- (b) Zeke is convicted of assault occasioning actual bodily harm at the Magistrate's Court. He is fined. Two days later the victim, Kim, is taken to the hospital and X-rays showed a blood clot in the brain.

Medical evidence reveals that the blood clot was caused by the injury inflicted by Zeke. Kim later becomes seriously ill and is slipping in and out of consciousness. The police are of the opinion that Zeke has escaped too lightly and wish to be advised as to the possibility of any further charges.

Advise the police.

---