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NORMAN MANLEY LAW SCHOOL
Council of Legal Education

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MONA, KINGSTON 7, JAMAICA

LEGAL EDUCATION CERTIFICATE
FIRST YEAR EXAMINATIONS, 1987

CRIMINAL PRACTICE AND PROCEDURE

(Wednesday, May 27, 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.

QUESTION 1

On January 10, 1984, whilst the tellers of the ABC Bank in Capital City were attending to customers, three men, John Deak, Jack Giddy and James Coe, each carrying a gun, entered the bank. Deak robbed Miss Jemmy, a teller of \$1,000; Giddy, whilst pointing the gun at Mr. Sam Jones, another teller, took from his drawer \$1,500 and Coe went into the office of the bank manager, Mr. Jos Smith, and robbed him of a revolver. They then ran out of the bank, entered a car in which there were two other men. As the car moved off Deak shot at a policeman who was crossing the road. The three men who entered the bank were apprehended.

Draft the indictment and explain the basis thereof with reference to relevant statutes.

QUESTION 2

On the trial of G for murder, H a juror, after the jury had retired to consider its verdict, left the jury room with the consent of the others and made a telephone call from a booth a few feet away. Thereafter he was prevented from rejoining the other jurors. The judge discharged him and the trial proceeded to verdict. G was convicted and wishes to appeal.

Advise him.

QUESTION 3

Indicate the courses open to an accused person on arraignment in the Supreme Court/High Court.

Give brief comments on any three of them.

QUESTION 4

Write notes on any three of the following:

- (i) challenges to the jury for cause;
 - (ii)(a) procedure on information charging an indictable offence in the Resident Magistrate's Court (Jamaica) or
 - (b) the laying of an information charge;
 - (iii) no case submission;
 - (iv) subpoena duces tecum;
 - (v) the rule in *Smith v Selwyn*.
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QUESTION 5

White was on January 7, 1987, convicted in the Supreme Court/High Court of the offence of robbery with aggravation and sentenced to five years imprisonment. He applied for leave to appeal against his conviction and sentence on January 8, 1987.

On March 31, 1987, not hearing from his Counsel who had defended him at the trial, he filed a notice of abandonment of his appeal.

Two days after filing the notice he learned that on March 27, a single judge of the Court of Appeal had granted him leave to appeal, and had assigned Counsel on his behalf. He now seeks leave to withdraw his notice of abandonment. According to an affidavit which he has filed, had he known at the time when he was about to file his notice of abandonment of appeal that he had been granted leave to appeal he would not have set in motion the abandonment of his appeal.

Write an opinion as to the chances of his success in getting leave to withdraw the notice of abandonment.

QUESTION 6

An indictment was presented against F in the Supreme Court/ 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 above-mentioned cheque.

Counsel for the accused 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. The accused was convicted on the count of receiving stolen goods whereupon Counsel for the prisoner 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.

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 together a 30 m.p.h. speed limit zone each cyclist travelling at 50 m.p.h. D collided with a pedestrian who was knocked to the ground.

Four separate informations charged each of them with driving at a speed exceeding the speed limit. A fifth information charged D with 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?

QUESTION 8

At the trial of Solo for murder, Counsel for the defence applied for an adjournment for a week to enable him to investigate some of the jurors named on the panel whom he had wished to challenge for cause. He informed the Court that he was only retained the week before the trial date and did not have sufficient time to investigate the jurors. The judge refused the application. Thereafter Counsel for the defence, having exhausted his peremptory challenges, challenged a juror for cause and sought leave of the Court to examine on the voir dire the juror so challenged before any steps were taken to adduce evidence in support of such challenge. This application was also refused. The juror challenged was eventually sworn and selected as foreman of the jury. Solo was convicted.

Solo wishes to know if the judge was right in refusing the applications. Advise him.
