

COUNCIL OF LEGAL EDUCATION

NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE
FIRST-YEAR SUPPLEMENTARY EXAMINATIONS, 2001

LAW OF EVIDENCE AND FORENSIC MEDICINE

(THURSDAY, AUGUST 9, 2001)

Instructions to Students

- (a) Time: 3 ½ hours
- (b) Answer **QUESTION 1** and **FOUR** others.
- (c) Answer Question 1 on a separate answer booklet.
- (d) 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.**
- (e) It is unnecessary to transcribe the questions you attempt.

PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.

PART A

QUESTION 1 – (COMPULSORY)

- (a) What is the medical difference, if any, between a bruise and a contusion?
- (b) What is rigor mortis?
- (c) An alleged case of carnal abuse involving a 12 year old girl is reported to the police. The Doctor's report states that "no injury is noted to the external genitalia and the hymen is intact. There is no obvious sign of penetration". However, the laboratory report of stains on the girl's panty as well as a swab of dried stains noted around the pubic region of the victim were positive for semen and acid phosphatase.

In your opinion, are these findings legally consistent with rape of the girl?

- (d) As an assistant at the D.P.P.'s Office, you are asked to make a ruling on a case submitted by the police regarding a controversial shooting involving two security guards, Guard "A" and Guard "B". The police report states that Guard "A" was handing a .38 revolver to Guard "B" when the weapon allegedly went off accidentally killing Guard "B".

The postmortem report states that "An entrance gunshot wound surrounded by a circular pattern abrasion is noted on the forehead of the deceased with a significant amount of gunpowder residue in the subcutaneous tissues."

In your opinion:

- (i) what caused the circular pattern abrasion?

- (ii) what was the range of fire.

Give reasons.

PART B

QUESTION 2

- (a) Ricardo is charged on an indictment for attempted murder arising out of an assault on his wife. At his trial, his wife was reluctant to give evidence against him but was compelled to do so by the judge. Ricardo was convicted.

Advise Ricardo on whether he has a good ground of appeal.

- (b) James is a boy aged nine years old. He is called as a witness by the Crown in a criminal trial. The judge embarks on a *voir dire* to determine whether to allow James to give sworn evidence. During the course of the *voir dire* James says that "no talk of God is permitted in our home." The judge is, however, very impressed with James' level of intelligence and allows him to give sworn evidence.

Advise on the correctness of this ruling.

QUESTION 3

- (a) Joe, a headmaster of a junior school, is charged with indecently assaulting two boys, one aged 8 and the other 10. The younger boy gives unsworn evidence pursuant to the applicable statutory provisions while the older gives sworn evidence with the permission of the judge after a *voir dire*.

Advise on the issue of corroboration generally. Would it make a difference if both boys gave unsworn evidence?

- (b) Assume that one of the boys referred to in (a) above reported the assault to his mother on his arrival from school on the same day of the alleged assault.

On what basis would evidence of such a report be admissible from the boy and his mother? If so, on what basis?

QUESTION 4

- (a) John, Gary and Tommy are supporters of their community football team. Together with other supporters they decide to engage in a fight against rival supporters of the adjoining community's football team. During the course of the fight, John pulls a knife and fatally stabs one of the rival supporters. Gary and Tommy are called as witnesses for the prosecution in a case against John of murder.

What directions, if any, should the trial judge give to the jury with respect to the evidence of Gary and Tommy?

- (b) Roger is charged with robbing Diana. The prosecution alleges that at about 7:00 p.m. while Diana was walking down a road, lit with street lights, which leads to her home, Roger ran up from behind her, grabbed her bag and ran away. Diana saw him for about twenty seconds as he ran away. She did not know him, but had seen him before. Roger is subsequently held by the police and is identified on an I.D. parade by Diana.

Advise whether the trial judge should give any special directions to the jury.

QUESTION 5

- (a) Karl is charged with the murder of his wife, Jane, and at his trial, the prosecution seeks to adduce in evidence a letter written by Karl to his attorney-at-law in which he sought advice as to whether a charge of murder can be established even though the victim's head cannot be found. The evidence shows that this letter was written a week before Jane's headless body was found. She had been dead for only a few hours at the time of the discovery.

Karl's attorney-at-law refuses to produce the letter when requested to do so, on the ground that it is a privileged communication.

Advise on whether the attorney-at-law is correct.

- (b) Discuss the "without prejudice" rule and its value in the process of civil litigation.
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QUESTION 6

Garvin was arrested and charged with house breaking and larceny of electronic equipment. After being in custody for three hours, Sergeant Smith told Garvin, "Don't you think it would be better for you to come clean and tell me exactly what happened?" Garvin replied "If I tell you the truth will I get bail and a lighter sentence?" The Sergeant did not say anything. Garvin then continued "All right, I will tell you how it happened. I did the job and my sister Jean drove the getaway car, but I don't want her to get involved in this."

At the trial Garvin's attorney-at-law takes an objection to the admissibility of the confession.

Advise as to:

- (a) the admissibility of Garvin's confession;
 - (b) the procedure to be followed at the trial on the objection being taken; and
 - (c) whether at any stage of the proceedings Garvin can be questioned as to the truthfulness of what is contained in the confession.
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QUESTION 7

Theodore and Fitzroy are jointly charged for larceny of steel from a building site near to Theodore's home. Fitzroy has several convictions for dishonesty and Theodore has two previous convictions, one for larceny and one for rape. Theodore testifies at their trial that he saw Fitzroy putting some of the steel on a

truck and went to enquire who gave him permission to do so when the police arrested them both. Fitzroy makes an unsworn statement from the dock denying the charge and asserting that he is of good character and would not steal.

Advise whether:

- (a) Theodore may be cross-examined on his previous convictions; and
 - (b) evidence may be adduced as to Fitzroy's bad character.
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QUESTION 8

- (a) James is charged with arson of a warehouse at his business place, the allegation being that he did so to obtain the insurance money. His defence is an alibi.

The prosecution seeks to adduce evidence at his trial from the investigating officer that on arriving at the scene some half an hour after the fire began, he heard a woman exclaim to a passing motorist "How come your place is burning and you are going away from the fire?"

Advise on the admissibility of this evidence.

- (b) Roy is charged with an offence under the relevant Fair Competition Act in that he falsely advertised that the only coffee he was selling in his café was imported "Genuine Blu Hill Coffee". At Roy's trial the prosecution tendered in evidence several bags of coffee found in his café bearing the

label "Jamdown Coffee", an inferior local brand of coffee and relied on the label to prove the offence. Roy was convicted.

Advise Roy as to whether he has any ground of appeal.
