

**COUNCIL OF LEGAL EDUCATION
NORMAN MANLEY LAW SCHOOL
LEGAL EDUCATION CERTIFICATE
FIRST YEAR SUPPLEMENTARY EXAMINATIONS, 1997**

LAW OF EVIDENCE AND FORENSIC MEDICINE

(Monday, August 11, 1997)

Instructions to Students

- (a) Time 3½ hours
- (b) Answer QUESTION 1 and FOUR OTHERS.
- (c) **Answer QUESTION 1 on a separate answer booklet provided.**
- (d) 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.**
- (e) It is unnecessary to transcribe the questions you attempt.

PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.

FORENSIC MEDICINE**QUESTION 1 (COMPULSORY)**

- (a) The medical certificate you received on behalf of one of your clients mentioned bruises and contusions. What is the difference between the two injuries?
- (b) On a post-mortem report the cause of death is stated only as Asphyxia. Is this medico-legally correct?
- (c) What is the meaning of Spontaneous Abortion?
- (d) How would you describe Forensic Ballistics?
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LAW OF EVIDENCE**QUESTION 2**

Don is charged with using an instrument to procure a miscarriage on Amy, who is now dead. His defence is that Amy performed the operation herself. In cross-examining Beth, a prosecution witness, the defence seeks to put questions to her that the deceased Amy had told Beth before the miscarriage that she intended to operate upon herself; and that after the miscarriage Amy confirmed having done so.

- (i) Should the questions be allowed?
- (ii) Does the fact that the defence is asking the questions make a difference?

Give reasons in each case.

QUESTION 3

During the course of a joint trial of Abe, Bart and Curt for murder, the prosecution witnesses are challenged as to their veracity on the basis that the entire case is a frame-up. Abe has two previous convictions for drug possession while Bart and Curt have other charges pending. In giving evidence, Bart and Curt claim that they are persons of good character. Abe gives no evidence.

- (i) May the prosecution challenge the character of any or all of the accused?
- (ii) Are there any special directions which the judge must give to the jury?

Give reasons in each case.

QUESTION 4

Duane is sued by Earl for fraud. During the course of the trial the plaintiffs seek to tender a tape recording of a conversation which clearly showed that the defendant, Duane, was knowingly involved in fraudulent activity. The defence contends that the tape recording is inadmissible because it was obtained by the installation of the listening device by Earl in Duane's office which is a civil trespass which the Court should not condone. The defence also objects to the evidence of Fran, a messenger in the office, on the grounds that she is mentally retarded and that of George, who arrives in Court in an intoxicated state.

Advise on the admissibility of these items of evidence.

QUESTION 5

Flack is charged with committing incest with his three sisters. The offences are alleged to have been committed over a period of several years and while each sister has given a clear statement of the offence having been committed, they are all, as the trial judge observes, "rather short on detail". Flack's counsel applies to sever the indictment on the ground that the evidence of each sister is inadmissible in relation to the others, as there is no similarity in the method of committing the offences as alleged.

- (i) Advise on the correct ruling on this application.
 - (ii) Advise the prosecution on the issue of corroboration generally.
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QUESTION 6

Identify and discuss the main rules relating to the following -

- (a) the admissibility of previous consistent statements;
 - (b) the competence and compellability of spouses; and
 - (c) refreshing memory by a witness while giving evidence in the witness box.
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QUESTION 7

- (a) Tom, Jerry and Garfield are students at the National University. Together with other students, they decided to engage in a fight against students of a rival university. During the course of the affray, Garfield fatally stabbed one of the

rival students. Tom and Jerry are the main witnesses for the prosecution in the case against Garfield for murder. What directions must the trial judge give to the jury with respect to the evidence of Tom and Jerry?

- (b) According to Beck [1982] 1 WLR 461 and Spencer [1987] 1 AC 128, what is the duty of a trial judge when evidence is given against an accused by a "suspect" witness who does not fall within one of the established categories which compel the judge to give a corroboration warning? How is this duty discharged?
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QUESTION 8

Art and Bat are both arrested for burglary of Downtown Post Office. Immediately on arrival at the police station they are taken to separate interview rooms. The officer interviewing Art told him that Bat had just made a statement implicating him. Art thereupon gave a statement. This was recorded only an hour after his arrest. Bat had in fact made no statement.

- (i) Advise Art as to the admissibility in evidence of his statement. If admissible, what is the evidential effect?
- (ii) Based on what Art had said in his statement, the police went to his home and searched his house without a warrant, despite the protest of May, Art's wife. Some of the recently stolen items were discovered in Art's home.

Advise as to the admissibility of these items in evidence at the joint trial of Art and Bat.
