

**COUNCIL OF LEGAL EDUCATION  
NORMAN MANLEY LAW SCHOOL**

**LEGAL EDUCATION CERTIFICATE  
FIRST YEAR EXAMINATIONS, JULY 2020**

**LEGAL DRAFTING AND INTERPRETATION**

**WEDNESDAY, JULY 15, 2020**

**Instructions to Students**

- (a) Duration: **24 hours**
- (b) Students shall enter their Examination ID Number **only**, **not their names**, on the cover page, the Academic Integrity Statement and on every separate page of the examination script.
- (c) The examination should be answered on letter-sized (8.5 x 11) paper only.
- (d) The examination should be submitted in Arial font 12 line spacing 1.5.
- (e) Students should clearly indicate the names of any cases with the citation and legislative provision/s (section number and Act) on which they rely to support their arguments. Consider using italics and/or bold text to make references prominent. (For example, *Rylands v Fletcher* [1868] UK HL1; **s.69 Real Property Act**). Sufficient detail is required to allow the examiners to understand the source of law that is being cited.
- (f) Footnotes, endnotes and bibliography are not required.
- (g) Students shall number the pages of their examination script as follows: Page 1 of 12, Page 2 of 12, etc.
- (h) In answering the question, a candidate may reply in accordance with the law of a Commonwealth Caribbean territory zoned for this school, **but must state at the beginning of the answer the name of the relevant territory.**

- (i) Each Student **must** ensure that their Anonymous ID in TWEN is changed to their four digit Examination ID Number, prior to submitting their examination script.
- (j) The examination script, with the cover page and Academic Integrity Statement saved in **ONE PDF DOCUMENT**, must be submitted in **ELECTRONIC** format via the **Year I JULY 2020 EXAMINATIONS, LEGAL DRAFTING AND INTERPRETATION DROP BOX on TWEN** by **Thursday, July 16, 2020, NOT LATER THAN** 9:00 a.m. (Jamaica) 8:00 a.m. (Belize) and 10:00 a.m. (Eastern Caribbean).
- (k) To upload the examination script which has been saved as one pdf document which includes the cover page and Academic Integrity Statement, you must follow these steps:
- Go to ***www.lawschool.westlaw.com***.
  - Log in using your username and password credentials and select the **TWEN** button.
  - Click on the link for **“Assignments and Quizzes”** located on the left-hand side of the navigation screen.
  - Select the relevant examination and the examination drop box as follows:
    - Year I students with Examination ID numbers between 1100 -1176 must upload script, cover page and Academic Integrity Statement to folder titled **“Drop Box A Year I -1100-1176”**.
    - Year I students with Examination ID numbers between 1177 -1252 must upload script, cover page and Academic Integrity Statement to folder titled **“Drop Box B Year I - 1177-1252”**.

- Year I students with Examination ID numbers between 1253 -1326 must upload script, cover page and Academic Integrity Statement to folder titled “**Drop Box C Year I -1253-1326**”.

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## **ANSWER PARTS A AND B**

### **PART A**

1. Ken Patt is an 18-year-old prankster who thrives on his ability to outwit law enforcement authorities. His last target was the Premium Park, located in the city centre, which contains some impressive sculptures of iconic leaders of society. One day in May 2020, Patt entered the park when there were few persons around, and placed oversized, distorted paper masks on the heads of three statues of national heroes, intending to publicly ridicule them.
2. Patt was accosted by a constable and ultimately charged for violating section 29 of the National Parks (Preservation) Act (“the NPPA”). Section 29 of the NPPA reads as follows:

*29. It is an offence for a person to wilfully deface a protected object within the precincts of any national park.*
3. Premium Park is classified as a national park and the relevant statues are declared as “protected objects” under the NPPA.
4. The NPPA was enacted at a time of considerable political tension in your jurisdiction. There was growing discontent from sections of the population, reflected in the emergence of new political movements and other civil advocacy groups which challenged the traditional political order. On the other hand, these developments triggered an outpouring of nationalistic fervour in the jurisdiction, not seen since the immediate post-independence era. Many pieces of legislation enacted around the same time as the NPPA bore the hallmarks of this nationalistic sentiment.

5. Section 29 of the NPPA is among a cluster of penal provisions between sections 25 and 32 of that Act which impose very heavy penalties, including the option of lengthy imprisonment, for violation of their terms.
6. Patt has been referred to the Legal Aid Centre for legal representation. You are a recent employee of the Centre, and the Director has assigned Patt's matter to you, with instructions to prepare a memorandum to him (the Director) on the prospects for a successful defence against the charge.
7. Your research uncovers the following:
  - (i) There is no definition of the word "deface" under the NPPA, nor does the Act as a whole clarify the scope of its meaning.
  - (ii) A leading dictionary defines "deface" as having two ordinary meanings: (a) "to ruin, wreck or destroy"; and (b) to "vandalise, distort or spoil the appearance of".
  - (iii) The Government-appointed National Heritage Board ("the Board"), which spearheaded the initiative to propose legislation to protect parks, had set up a committee ("the committee") to make recommendations for legislative change.
  - (iv) In its report to the Board, the committee had emphasised the urgent need, in the context of the fraught political climate, to actively promote the memory of national leaders, and to take strong measures to preserve the dignity and honour of such leaders when represented in artistic form in national parks.
  - (v) The committee's report was adopted in its entirety by the Board, which then presented to the Government its proposals for legislative action to protect parks.
  - (vi) The Board's report was ultimately accepted by the Government and tabled in Parliament, and its recommendations formed the underpinning of the NPPA when enacted.

- (vii) There are common law offences which criminalise the intentional damage to, or tarnishing of, property, with sanctions far lower than those under the NPPA.
- (viii) Jay Ronda, Professor of Public Law in the Faculty of Law of the regional university, wrote an article on the National Parks (Preservation) Bill that was published in the prestigious Contemporary Law Journal (“the CLJ”), just after the Bill had been tabled in Parliament. The article generated considerable debate in the public media at the time of the lengthy deliberations in Parliament on the Bill. In the article, Professor Ronda adopted the position set out below.
8. He lamented the excessively high sanctions imposed under the NPPA for offences which essentially defamed the reputation and memory of iconic national figures. He argued that a vibrant democracy presupposed that sharp criticism and ridicule would be levelled periodically at state institutions and leaders, and that wide latitude should be given to citizens in expressing dissent.
9. While conceding that there were limits to the expression of dissent in a civilised society, Professor Ronda warned against the treatment of iconic leaders as beyond reproach. He observed the following:

*We must always be zealous to guard our democracy against the tendency to idolise leaders, however central they may have been to our development as a nation. This is what distinguishes countries like ours from others with autocratic or fundamentalist inclinations, where dissenters are rounded up and charged for insulting the monarch or state in an opinion piece to the local newspaper, in a speech at a political rally, in actions dishonouring national symbols, or the like.*

*Many police states did not spring up overnight - they evolved from draconian measures taken over time to stifle dissenting voices. Let us be clear-eyed about this Bill - misguided steps taken by our Parliament can incrementally lead us to a frightening place.*

10. In the article, Professor Ronda examined a number of the penal provisions under the Bill, including the clause subsequently enacted as section 29. He argued that while tarnishing representations of leaders in public spaces deserved some penalty in a civilised society, there was the danger of governmental overreach. In his opinion, where the language of these provisions attracting harsh penalties was uncertain, they should be interpreted narrowly; accused persons should gain the benefit of any doubt, since no one should be condemned unless under clear provisions of law.
11. Professor Ronda also called attention in the article to alternative common law offences, with lighter penalties, which could be invoked to punish offenders once the elements of the offences were satisfied.

**Required:**

Paying due regard to all of the above developments, prepare the memorandum requested by the Director of the Legal Aid Centre.

**PART B**

The facts of PART A remain the same EXCEPT as indicated below:

- (i) Section 29 of the NPPA reads:

*29. It is an offence for a person to wilfully ruin, mangle, mutilate or otherwise distort the appearance of a protected object within the precincts of any national park.*

- (ii) Patt has been charged for vandalising the three statues, contrary to section 29 of the NPPA.

- (iii) The Long Title to the NPPA states:

*AN ACT to make provision for the development and preservation of areas designated as national parks, for the implementation of measures to conserve the indigenous flora and fauna in these areas ... to commemorate the life and work of notable national leaders through the commissioning and*

*preservation of monuments, statues and other cultural representations, to foster community pride in these cultural treasures and to protect these national symbols from intentional physical damage ...*

- (iv) The political tension mentioned in paragraph 4 of Part A did not exist at the time the National Parks (Preservation) Bill was tabled and debated in Parliament.
- (v) Paragraph 7 (i) through (vi), and (viii), as well as paragraphs 8 through 11, do not apply to this Part.

**Required:**

Prepare the memorandum to the Director of the Legal Aid Centre based on these altered facts.

**Note:**

- (i) Your answer to both Parts A and B should not in total exceed **4000 WORDS**.
- (ii) Your memoranda should each include the appropriate headings and reference the relevant facts.

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**END OF PAPER**