

COUNCIL OF LEGAL EDUCATION  
NORMAN MANLEY LAW SCHOOL

LEGAL EDUCATION CERTIFICATE  
FIRST-YEAR EXAMINATIONS, 2002

LEGAL DRAFTING AND INTERPRETATION

(FRIDAY, MAY 24, 2002)

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.
- (e) Answers should be written in ink.

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PLEASE REMAIN SEATED UNTIL YOUR SCRIPT HAS BEEN COLLECTED.

## QUESTION 1

One night recently, neighbours heard Bindra and Sati engaged in an altercation in Sati's house. He threatened to murder her and she threatened to stab him and then dismember him. He was then seen running away from the house in a rage. Two hours later screams were heard coming from Sati's house and Bindra was seen standing on the ground outside an open window of the house with his hands inside. Neighbours who saw the incident from an upstairs window next door said that Bindra had been choking Sati while she sat on a chair in front of the window. Bindra was subsequently charged for an offence under Section 19 of the Larceny Act, to wit, being found by night in a building, namely Sati's house, with intent to commit a felony therein, namely to do grievous bodily harm to Sati.

Section 19 provides –

“19. Every person who shall be found by night in any building with intent to commit any felony therein shall be guilty of misdemeanour and sentenced to two years imprisonment”.

The judge in handing down judgment said –

“It was submitted on behalf of the accused that for him to be guilty of the offence it had to be committed while his entire body was inside. But I cannot agree. It would be absurd to think that the accused should get away having attempted to commit murder and having committed serious bodily harm. And I have good authorities for this. Lord Blackburn in River Wear Commissions v Adamson stated that a court should interpret an Act so as to avoid a result which was manifestly absurd, and Lord Denning in Northman v Barnet London Borough Council said: 'Faced with glaring injustice, the judges are, it is said, impotent, incapable and sterile. Not so with us in this Court. The literal method is now completely out of date. It has been replaced by the approach which Lord Diplock described as the purposive approach'.”

Bindra was found guilty as charged and sentenced to two years imprisonment. His attorney-at-law has sought your opinion as to whether he should appeal the conviction.

Advise Bindra. Give reasons.

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## QUESTION 2

On Saturday April 19, 2002, your client Sonny Blue, a member of a group known as the 'Black Brigade', organized with others an anti-government rally on the pasture of a large farm just outside a small rural village. There was a gathering of about three hundred persons at the rally. As each speaker addressed the gathering persons became more and more agitated until the crowd became very boisterous so that when the leader of the group, Robert Burns, known as "Dread Bobby" began addressing the crowd they were almost in a frenzy and were ready to act on command.

An elderly citizen, who lived nearby, concerned about the situation, phoned the police station in the nearest town which was approximately ten kilometers away from the farm. The police responded very quickly to the call. The police party consisted of a superintendent, four constables and eight civilians, who were said to be security guards working at various locations in the town.

On arrival the superintendent seized the microphone and ordered the crowd in Her Majesty's name to immediately disperse and go home. The time was approximately 5:45 p.m.

Within minutes thereafter, the crowd began to disperse, however, Sonny along with a few members of the 'Black Brigade' remained at the farm and refused to leave. At 7:00 p.m. they were arrested and charged for refusing to disperse from a seditious meeting when ordered to do so, contrary to section 2 of the Seditious Meetings Act.

Section 2 of the Act states as follows -

"When any Justice, or Officer as defined in section 2 of the Constabulary Force Act (in this Act referred to as an "Officer") shall receive information on oath, or have reasonable cause to suspect that any meeting or assembly is held for the purpose of stirring up or exciting any person or persons to commit any act of insurrection or insubordination, or to obtain otherwise than by lawful means any alteration or change in the constitution or government of the Island as by law established, or to commit the offence of administering or taking unlawful oaths, or for any seditious purpose whatsoever, every such Justice or Officer shall forthwith proceed to such meeting or assembly; and it shall be lawful for such Justice or Officer to require and take the assistance for any number of constables within the place wherein such meeting or assembly as hereinbefore mentioned shall be holden, or any other person or persons in their aid or assistance when they shall deem such aid or assistance to be necessary and requisite; and such Justice or Officer shall then and there order and direct, in Her Majesty's name, all and every persons whom he shall find there assembled peaceably to disperse; and if any person or persons, notwithstanding they have been so ordered and directed to disperse, shall continue together by the space of half an hour after they shall have been so ordered and directed to disperse, then and in every such case the person or persons so continuing, on due proof that such meeting was of a seditious or treasonable nature, being thereof legally convicted, shall be adjudged guilty of felony, and be liable to imprisonment with or without hard labour for a term not exceeding four years."

Sonny, who represented himself at his trial argued that he was not guilty of the offence for which he was charged since –

- (i) the meeting was not seditious as there were no physical acts of violence or insurrection at the farm;
- (ii) no offence was committed against the Act as the place where the meeting was held was private property and was therefore not a public place; and
- (iii) that the action of the police was contrary to section 2 of the Act, as the police constables who accompanied the superintendent to the meeting were not taken from the place where the meeting was being held as required by section 2.

The judge, however, rejected these submissions and found Sonny guilty as charged and sentenced him to imprisonment for six months.

Sonny wishes to appeal his conviction and has sought your advice.

What is your advice? Give reasons.

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### **QUESTION 3**

Your client, De-con Goodfellow, was charged and found guilty of the offence of driving a motor vehicle after he had consumed so much alcohol that on being tested by breathalyser equipment the test revealed an alcohol level well in excess of the prescribed maximum, contrary to section 4 of the Road Safety Act.