

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

**LEGAL EDUCATION CERTIFICATE  
FIRST YEAR EXAMINATIONS, MAY 2022**

**LEGAL DRAFTING AND INTERPRETATION**

**THURSDAY, MAY 5, 2022**

**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 a bibliography are not to be used.
- (g) Where word limits have been given, the actual word counts must be included at the end of your answer. Students who have exceeded the word limits will be penalised.

- (h) Students shall number the pages of their examination script as follows: Page 1 of 12, Page 2 of 12, etc.
- (i) In answering any Part, 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.**
- (j) 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.
- (k) 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 MAY 2022 EXAMINATIONS, LEGAL DRAFTING AND INTERPRETATION DROP BOX on TWEN** by **Friday, May 6, 2022 NOT LATER THAN** 9:00 a.m. (Jamaica), 8:00 a.m. (Belize) and 10:00 a.m. (Eastern Caribbean).
- (l) 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 - 1185** must upload script, cover page and Academic Integrity Statement to folder titled **“Drop Box A Year I – 1100 - 1185”**.

- Year I students with Examination ID numbers between **1186 - 1271** must upload script, cover page and Academic Integrity Statement to folder titled “**Drop Box B Year I - 1186 - 1271**”.
  - Year I students with Examination ID numbers between **1272 - 1357** must upload script, cover page and Academic Integrity Statement to folder titled “**Drop Box C Year I - 1272 - 1357**”.
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1. The Cities and Towns Act 1830 (“the CTA”) was enacted to regulate the conduct of persons within the boundaries of cities and towns, in order to ensure the preservation of the peace and general good order in these areas.

2. Section 37 of the CTA reads:

*“37. It is an offence if any person, having the charge of any buggy, handcart, ox, mule, or any other conveyance, by negligence or wanton misconduct in the handling of these animals or things causes harm to, or threatens the life or limb of, any other person.”*

3. Section 37 addresses the growing tendency, in the early 19<sup>th</sup> century, for persons who lived outside cities and towns to converge on these urban areas with farm produce and other goods for sale. Typically, these goods were carried by animals or some form of vehicle. In several instances, the management of these animals or vehicles caused accidents, resulting in the infliction of serious injuries on others, and general commotion in the affected area.

4. The word “buggy” is defined in section 2 of the CTA as “a horse-drawn vehicle designed to carry goods and no more than three persons”.

5. There is no definition of “conveyance” under the CTA.

6. At the time of passage of the CTA, there was no train service in your jurisdiction.

7. In December 2021, Transport Savvy Limited (“TSL”), a local private company, with investment from a foreign consortium, introduced a limited train service in your jurisdiction. The Government granted TSL a licence to operate this venture, as several efforts of its own to initiate a viable railway service had faltered, and the existing transportation system had proven inadequate to meet the needs of the population.
8. The approved service covers only a part of the jurisdiction with a high population density, and connects a number of important cities and towns. Since the inception of the service, Mack Nimble, the train driver, has revelled in his role, as whenever the train (“the Class A PLUS train”) approaches any of the urban centres, it is greeted with much fanfare from the crowd in attendance. On a number of occasions, the train has approached the relevant stations at excessive speeds, Nimble ignoring the several speed limit signs erected along the track. He has also been observed on some of these occasions doing an energetic dance jig, with arms swinging wildly.
9. Some weeks ago, as the train approached the town of Firesmoke at excessive speed, Nimble was performing his dance routine. The train rounded a corner and suddenly lurched off the track, eventually crashing. Some of the passengers on board were injured, and panicked persons on the nearby railway platform stampeded into the main station building, seeking safety.
10. The Director of Public Prosecutions/Attorney General (“DPP/AG”) has decided to prosecute Nimble and, by virtue of the principle of vicarious liability, his employer, TSL, for an offence under section 37 of the CTA. There is no question that Nimble was in charge of the train at the material time, and that his behaviour constituted “negligence or wanton misconduct” within the meaning of section 37, so as to injure, or threaten the lives of, other persons. However, the only live issue before the Parish/Magistrates’ Court is whether the train constitutes “any other conveyance” within the section. It is accepted that if the train is a “conveyance”, TSL would be vicariously liable for Nimble’s actions.

11. Extracts from the judgment of His Honour Mr Donnie Farwether appear below:

*“18. Counsel for the prosecution strongly urge me to find that this Class A PLUS train comes within the meaning of “any other conveyance” under s 37. They submit that the language of the phrase is very wide, and is adaptable to new situations as and when they arise over time. The prosecution therefore advocate for a generous interpretation to be applied so as to cover any vehicle that carries or transports people or goods from point A to point B. In their view, this train clearly qualifies.*

*19. However, counsel for Mr Nimble and TSL vigorously oppose this position. They submit that the CTA is a creature of its time, and whatever the merits of taking account of modern developments, it would be a step too far to accommodate a train within the ambit of the section, having regard to the substantially different factual background existing in 1830.*

...

*24. Counsel on both sides have presented forceful arguments. In the final analysis, however, I find in favour of the defendants. While I am alive to the submission that words may take on new meaning with the passage of time, there has to be some proper nexus between the initial factual scenario and the subsequent developments. In the early 19<sup>th</sup> century, vendors were entering urban centres with animals or other carriers of goods, and causing harm; this reflects a specific commercial context. In the case now before me, a train driver has recklessly managed the train on its approach to a town area, causing damage.*

*25. While there is some broad similarity between the two situations, I am far from convinced that it is sufficient to justify the extension of “conveyance” to the Class A PLUS train in this case. In fact, I cannot imagine that any of the legislators considering this Bill in Parliament in 1830 would have made any connection between the two sets of circumstances, however blessed with foresight they might have been.*

*26. I am fortified in my conclusion by a consideration of the specific language used in s 37. I have in mind the **ejusdem generis** rule of law which mandates me to construe “any other conveyance” in a manner consistent with the tenor of the specific preceding words with which the phrase is associated. On this basis, it seems to me that the words chosen by Parliament can only be given a restrictive, not liberal, application.*

*27. In all the circumstances, therefore, I must reject the prosecution’s call to extend the meaning of “any other conveyance” to cover this Class A PLUS train. I am a creature of the law, and must be careful to avoid judicial excess.”*

12. The defendants were accordingly acquitted. The DPP/AG is dissatisfied with the court’s ruling and is contemplating an appeal. You recently joined the prosecution team, and the DPP/AG now asks you to research the matter and report your findings to him. (You are to assume that the DPP/AG has the right of appeal.)

**Required:**

Carefully review the extracts from the judge’s ruling above, against the backdrop of the given facts, and prepare an opinion to the DPP/AG on whether any cogent grounds exist for challenging the judge’s decision. (Your opinion must not exceed **3,300 words**.)

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**END OF PAPER**