



# THE UNIVERSITY OF THE WEST INDIES

EXAMINATIONS OF \_\_\_\_\_ JULY \_\_\_\_\_ 19 99

CODE AND NAME OF COURSE: LA10B CONSTITUTIONAL LAW

DATE AND TIME: FRIDAY 6TH AUGUST, 1999 9.00 A.M. DURATION: 3 HOURS

INSTRUCTIONS TO CANDIDATES: This paper has 3 pages and 8 questions.

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Answer **FOUR** questions.

Answers may be confined to the law of any jurisdiction in the Commonwealth Caribbean unless the context indicates otherwise.

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1. "The procedures [for constitutional amendment] vary in difficulty, depending on which provision of the Constitution is being altered. They are laid down by the Constitution itself under a scheme of 'entrenchment' ... "

Discuss this statement in the context of the Constitution of an independent Commonwealth Caribbean state of your choice.

2. Discuss the view that the notion that the constitutions of the independent states of the Commonwealth Caribbean are Westminster Model Constitutions is not only trite and ancient, but is also good legal doctrine.

3. With reference to the decided cases, discuss the present state of the law which relates to the notions:

- (a) anticipatory review, and
- (b) alternative remedies

in the constitutional law of the Commonwealth Caribbean.

PLEASE TURN OVER

4. Discuss the view that the independence of the judiciary is very firmly secured by provisions which are contained in the constitutions of the independent states of the Commonwealth Caribbean.
5. With reference to the constitutional law of a Commonwealth Caribbean country of your choice, critically analyse the powers which are conferred by the Constitution for the appointment of a Prime Minister or a President [with respect to Guyana], after elections.
6. Candus is a Commonwealth Caribbean country of your choice. As Counsel to the Head of State of that country, advise the Head of State by way of a legal opinion whether he may take the following actions:
  - (a) refuse to assent to Bills which have been passed by Parliament because he is not satisfied that the Parliament adhered to the correct procedure for passing the Bills;
  - (b) bring legal action against the Prime Minister for constantly refusing to inform him (the Head of State) on the affairs of government;
  - (c) remind the Prime Minister by way of letter that the power to enter into treaties on behalf of Candus resides in him (the Head of State).
7. Section 18(8) of the Constitution of Anbola, an independent Commonwealth Caribbean state, provides that a person who is tried by a court, tribunal or other body, shall be given a fair hearing.

Section 39(4) of the said Constitution gives power to the National Assembly to determine its own procedures.

Standfast, a member of the opposition in the National Assembly, is accused by the Speaker of the Assembly of making false and misleading statements during a debate in the House. At the behest of the Speaker, the members of the Assembly pass a resolution to suspend Standfast from the Assembly for six months. Standfast was not present during the debate or at the time of the vote on the resolution.

Standfast is of the view that the matter was politically motivated and was intended to embarrass him. He wishes to challenge his suspension from the Assembly by way of legal action.

Advise Standfast.

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8. Section 21(1)(b) of the Constitution of Fibola, an independent Commonwealth Caribbean state, provides that a person who is charged with a criminal offence shall, when charged on information in the High Court, have the right to trial by jury.

The government of Fibola introduced severe penalties for drug offences by enacting The Misuse of Dangerous Drugs (Amendment) Act, 1998, (hereinafter referred to as "the Act".)

Section 19(2) of the Act provides a maximum penalty of 20 years imprisonment and a fine not exceeding \$200,000.00 to be imposed upon any person who is convicted in a Magistrate's Court for the possession of certain drugs with intention to supply .

Section 19(3) empowers a Magistrate to commit a person who is committed under section 19(2) to the High Court for sentence, while section 19(4) provides a mandatory penalty of life imprisonment and a fine of \$300,000.00 to be imposed by the High Court for anyone who is convicted under the Act.

Dopus is convicted in the Magistrate's Court for the possession of cocaine with intention to supply and is sentenced under section 19(4) of the Act by a Judge of the High Court. His appeals against the conviction have been dismissed, but he now wishes to challenge the constitutionality of the legislation under which he was sentenced.

Advise Dopus.

END OF PAPER

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