



THE UNIVERSITY OF THE WEST INDIES

EXAMINATIONS OF JULY/AUGUST 2002

CODE AND NAME OF COURSE: LA10B - CONSTITUTIONAL LAW

DATE AND TIME:

DURATION: 3 HOURS

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

Answer FOUR (4) questions. Answers may be confined to the law of any jurisdiction in the Commonwealth Caribbean unless the context indicates otherwise.

1. "The historical affinity of Commonwealth Caribbean Constitutions to the Westminster pattern is undeniable, but it is a matter of taste as to whether the constitutions are called 'Westminster style' or 'Westminster export style'."

Discuss.

2. Can the procedures for constitutional amendment in the constitutions of the independent states of the Commonwealth Caribbean fairly be criticised for an excess of intricacy and inflexibility?

3. Answer **BOTH** (a) **AND** (b)

(a) Is the power to order an injunction against the State to restrain the breach of a constitutional right vested in the Supreme Courts of Commonwealth Caribbean states?

(b) To what extent, and under what circumstances, may the Supreme Court review legislation for unconstitutionality before it is (i) passed by the Houses of Parliament and (ii) assented to by the Head of State?

4. "The concept of the Rule of Law has no relevance to the constitutional law of the Commonwealth Caribbean."

Discuss.

P.T.O

5. You are a Crown Counsel in the Legal Department of Tobagonia, an independent Commonwealth Caribbean state. The Attorney-General has requested that you advise him as to the constitutionality of the following proposals for legislation:
- (a) to provide that persons who are convicted of serious wounding offences shall be imprisoned during the pleasure of the Head of State;
 - (b) to empower the Comptroller of Customs to impose, by Order, such levy as he sees fit on imported motor vehicles; and
 - (c) to empower the Head of State to prescribe, by Order, the projects which are to be financed from the funds raised from a training levy, which has been imposed by an Act of Parliament.

Advise the Attorney-General.

6. Does the constitutional protection of judicial independence need strengthening in any respect and, if so, how might this be done?
7. Section 75 of the Constitution of Balbus, an Independent Commonwealth Caribbean country provides as follows:

"There shall be a Prime Minister of Balbus who shall be appointed by the Governor-General."

Section 76 of the Constitution of Balbus also provides as follows:

- "(1) Whenever the Governor-General has occasion to appoint a Prime Minister he shall appoint a representative who appears to him likely to command the support of the majority of the elected Representatives.
- (2) In the exercise of the powers conferred upon him by subsection (1) the Governor-General shall act in his own deliberate judgment."

Section 107 of the said Constitution provides as follows:

"Where by this Constitution the Governor-General is required to perform any function in his own deliberate judgment, or on the advice or recommendation of any other authority or person, the question whether the Governor-General has so exercised that function shall not be enquired into in any court of law."

Elections are held in Balbus on the 20 April, 1997. On the following day, the Supervisor of Elections advised the Governor-General that the Peoples Party won 11 seats, the Passive Party won 11 seats and the United Front Party won 3 seats.

P.T.O

The Governor-General immediately invites Primus, the leader of the United Front Party, to form a new government which is sworn into office on the 25 April, 1997.

Busismus, who voted in the general elections threatens to take legal action to have the Primus government removed from office.

As a Crown Counsel, you are asked by the Attorney General to advise him, by way of a legal opinion, whether such an action by Busismus can succeed. Advise the Attorney General.

8. "Some conventions of the British Constitution are to be found as provisions in many Constitutions of the independent Commonwealth Caribbean states and as such are no longer conventional from the Caribbean standpoint". [Thomas]

Discuss.

END OF QUESTION PAPER