



THE UNIVERSITY OF THE WEST INDIES

EXAMINATIONS OF _____ JULY _____ 2000

CODE AND NAME OF COURSE: LA11A - CRIMINAL LAW I

DATE AND TIME:

DURATION: 2 HOURS

INSTRUCTIONS TO CANDIDATES: This paper has 3 pages and 6 questions.

Answer **THREE** Questions

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

1. "In the sphere of criminal law, I entertain no doubt that there remains in the courts of law a residual power to enforce the supreme and fundamental purpose of the law, to conserve not only the safety and order but also the moral welfare of the state, and that it is their duty to guard it against attacks which may be the more insidious because they are novel and unprepared for." (Viscount Simonds in *Shaw v DPP*).

Critically discuss.

2. Discuss any **TWO** of the following:-
- (i) The defence of duress;
 - (ii) The *actus reus* and *mens rea* of incitement;
 - (iii) The criteria employed by the courts in determining whether a statute imposes strict liability.
3. During the course of a quarrel, Chan, who is armed with a knife, threatens to cut Bubba unless Bubba agrees to stop seeing Chan's girlfriend, Ruth. Bubba's elder brother Stephen, overhears the threat, picks up a stone and throws it at Chan who ducks.

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The stone hits Ralph and wounds him in the head. Ralph, who does not believe in medical practitioners, consults an obeah man who applies a herbal concoction to the wound. The wound becomes infected as a result.

Two weeks later Ralph dies from toxæmia.

Consider Stephen's criminal responsibility.

4. Answer **EITHER (i) OR (ii)**:-

- (i) The common law concepts of intention and recklessness in the criminal law are so uncertain, that it is high time that there be some degree of certainty in the law.

Critically discuss.

- (ii) "The penal law must content itself with keeping men from doing positive harm, and must leave to public opinion, and to the teachers of morality and religion, the offence of furnishing men with motives for doing positive good...[We] must content ourselves with punishing such omissions only when they are distinguished from the rest by some circumstance which marks them out as peculiarly fit objects of penal legislation." (*Lord Macaulay*).

Critically discuss.

5. Jerry steals a car from a car park and drives it to the house of his friend Don. Jerry knows that the car is to be used in a robbery but he does not know which one. After parking the car in Don's garage, he leaves the key in the car, gets out, and takes the bus home.

Don and Simon agree to rob a neighbourhood bank. Their gardener Willis drives the stolen car to the bank as the 'getaway' car. Don and Simon agree that they would merely frighten anyone found at the bank through threats with unloaded guns. Believing that the manager is about to press an alarm bell, Don fires at the manager who drops dead. Simon is surprised when he discovers that Don's revolver is loaded, but he nevertheless continues to steal the money.

Don then fires another shot in the air to show that he means 'business'. When this shot is fired, Alice, a customer with a weak heart, suffers heart failure and dies.

During the robbery Willis waits outside the bank in the car. He does not know that Don and Simon are carrying guns. He drives them away from the bank after the robbery. All three unexpectedly show up at Martin's house, who allows them to use his premises to change their clothes and share out the money.

Discuss the criminal liability of Jerry, Don, Simon, Willis and Martin.

6. Answer **BOTH (i) AND (ii)**:-

- (i) Troy, who loves his grandmother, decides to kill her. He knows that she has left him all of her property under her will and he is in dire financial straits. He goes shopping and buys a knife and a bottle of rum. He drinks the rum and while drunk, kills his grandmother.

Consider Troy's criminal responsibility.

- (ii) Kerry and his friends spend the night at a beach bar and they all consume great amounts of beer and rum punch. Kerry becomes extremely drunk, is finally 'knocked out' and falls asleep. He awakens to find himself in the passenger seat of a car which is careering down a hill. He takes control of the vehicle and steers it to safety. He is charged with driving under the influence of alcohol.

Consider Kerry's criminal responsibility.

END OF PAPER