



THE UNIVERSITY OF THE WEST INDIES

EXAMINATIONS OF DECEMBER 2000

CODE AND NAME OF COURSE: LA25A JURISPRUDENCE

DATE AND TIME:

DURATION: 2 HOURS

INSTRUCTIONS TO CANDIDATES: This paper has 2 pages and 4 questions.

Answer **TWO (2)** questions.

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

1. An important question for jurisprudence concerns the nature of legal reasoning entailed in the adjudication of cases. Dworkin believes that adjudication is an interpretative act that proceeds on a consideration of relevant standards of law, such as rules, precedents and principles, for the case in question. Legal realism disputes this claim, arguing that legal standards play virtually no role in the decision of cases.

Discuss.

2. A consideration of the *Andy Mitchell* case from the standpoint of Kelsen's theory of revolutionary legality would afford us a classic view of the role that jurisprudence might play in the determination of concrete cases.

Discuss.

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3. West Indian Independence Constitutions are said to have had their juridical origins in statutes of the Westminster imperial parliament. On this view, some have speculated that it is from these enactments that they derive their *validity* and, ultimately, their *legitimacy*. This might explain why there is now a fervent call, in some quarters, for their re-enactment by the respective local parliaments.

Consider the adequacy of Hart's positivistic theory of law in accounting for the *validity* and the *legitimacy* of our Independence Constitutions.

4. Discuss the idea of a natural law theory of the basic human, civil and political rights constituting the foundations of our constitutional law, the criminal law, and the law of international torts or delicts.

END OF PAPER