THE HONORABLE SOCIETY OF KINGS INNS

ENTRANCE EXAMINATION

AUGUST 2010

Examination: Criminal Law

Date: Tuesday 17 August 2010
Time: 10.00 a.m. – 1.00 p.m.

Internal Examiner: Mr Tom O'Malley NUIG
External Examiner: Mr Michael O'Higgins SC

Instructions:

Candidates **MUST** attempt Question 1 and any two other questions.
Question 1 carries 50 marks.
All other questions carry 25 marks each.
Question 1, which carries 50 per cent of the total marks, must be answered. Candidates must also answer any two of the remaining questions, each of which carries 25 per cent of the total marks.

1. On the night of 19th April 2010, Patricia was out celebrating her 17th birthday which had occurred the previous day. Because she had had a good deal to drink, she decided to stay with two of her friends, Anne and Mary, who lived in a house which was close to the pub where they were drinking. As soon as they reached that house at about 1.00 a.m. on the following morning, they all went to bed and quickly fell asleep. At about 2.00 a.m., Patricia awoke and found a man having sexual intercourse with her. She began to scream and very soon her two friends, Anne and Mary, came running into the bedroom. At that point the man in question jumped out of bed, rushed past them and ran down the stairs. Anne and Mary pursued him and followed him into the kitchen. He clearly intended to leave the house by a back door which opened from the kitchen out into the back garden. Anne tried to prevent him from leaving by getting past him and positioning herself at the backdoor while Mary ran to the telephone to call the Gardai. As soon as the man saw that Anne was trying to block his path, he turned around, grabbed a bread knife from the kitchen table and stabbed her in the chest with it. Anne collapsed on to the floor and when Mary ran back into the kitchen, the man stabbed her in the stomach with the knife. Meanwhile, Patricia had managed to contact the Gardai on her mobile phone and as the man was running away from the house, he was apprehended and arrested by the Gardai who were just arriving at the scene. Anne died shortly afterwards as a result of the stab wound, and while Mary was seriously injured as a result of the stab wound to her stomach she has survived. The man has since been identified as Jack Smith who is 35 years of age and who suffers from endogenous depression. He has spent a number of short periods in psychiatric hospitals as a result of that condition. You are requested to advise the Director of Public Prosecutions, on the basis of these facts, as to the charges which might properly be brought against Mr Smith and, depending on your advice in that regard, of any defence(s) which he might raise at his trial.

2. Your advice has been sought by a solicitor who is representing Michael Jones on charges of murder and burglary which are alleged to have been committed in the following circumstances. The victim, Patrick Murphy, was a farmer who lived on his own in an isolated area. On the first Tuesday of every month, he travelled to a town about 30 miles away to attend a livestock mart. He usually returned home at about 9.00 p.m. that evening. Mr Jones, who lived in the same locality, was aware of this. On Tuesday, 6 July 2010, at about 6.30
p.m., Mr Jones went to Mr Murphy's house and broke in through the back door. He went through the house looking for money or other valuables which he might take. It appears that Mr Murphy arrived back home unexpectedly while Mr Jones was still in the house. There is some uncertainty as to what exactly occurred immediately thereafter. However, the following morning, when Mr Murphy's nephew called to the house, he found the back door open and when he went upstairs he found his uncle's naked body on a bedroom floor. A post-mortem examination revealed that Mr Murphy had died as a result of strangulation sometime in the course of the previous 24 hours.

Following a police investigation, Mr Jones was arrested and charged with murder and burglary. Your instructions are that Mr Jones admits that he broke into the house and is therefore willing to plead guilty to the burglary charge. However, in relation to the murder charge, he claims that on the evening in question, he was in an upstairs bedroom when he was surprised by Mr Murphy who came into the room, having returned to the house earlier than usual. Mr Jones says that he apologised to Mr Murphy for being in his house and asked him not to call the Gardai. He claims that Mr Murphy did not reply but that he proceeded to take off all his clothes and that he said to Mr Jones that if he was willing to do the same and go to bed with him, there would be no report made to the Gardai. Mr Jones claims that, at that point, he just lost control of himself, that he grabbed Mr Murphy by the neck and strangled him.

On the basis of these instructions, you are asked to advise the solicitor as to any defence which Mr Jones may be able to raise in respect of the murder charge.

3. The Gardai have recently sent a file to the Director of Public Prosecutions in connection with an investigation which they undertook following a complaint from the owner of a Dublin boutique. The facts, as alleged, are that one day in early May 2010, Sonia entered the boutique in question and began looking at various items of clothing on display. While Michele, the owner of the boutique, was dealing with other customers, Sonia went into an office at the back of the boutique where Michele stored items that had not yet been put on public display. There was a sign on the door of the office saying, "Private. Staff Only". It is alleged that while Sonia was in the office, she took a designer dress, valued at €2,500, placed it in her shopping bag and left the boutique with it. Shortly afterwards, Michele noticed that the dress was missing and suspected that it was probably taken by the woman, subsequently identified as Sonia, who had recently been in the boutique. There was no CCTV system in operation, so although the Gardai were alerted, there was little they could do to track down the likely suspect. However, about two weeks later, Sonia returned to the boutique with the dress which she had taken and said that she wished to give it back. She explained that she had been expecting to be invited to a celebrity wedding which was taking place in the west of Ireland in early July but it was now quite clear that she was not on the guest list, and so she no longer needed the dress. She also indicated that it had always been her intention to return the dress once the wedding was over. She willingly gave
her correct name and address to Michele and fully co-operated with the Gardaí when they subsequently questioned her. Advise the Director of Public Prosecutions as to the charges, if any, that might be brought against Sónia in these circumstances.

4. Jack, who is a drug addict, owed a considerable sum of money to Patrick who had been supplying him with drugs. One Wednesday evening about six weeks ago, Patrick phoned Jack and told him that he would be "dead meat" unless, by the end of that week, he had paid back all of the money which he owed for the drugs. Jack panicked and decided that he needed to get the money as soon as possible. He was well aware that Patrick was a violent individual who had already inflicted very serious injuries on other people who had failed to pay him for drugs which he had supplied. Jack therefore got a knife from the kitchen of his mother's house, and went to an off-licence about a half a mile away. He entered the premises intending to demand that the sales assistant hand over money to him at knife point. As soon as he entered, however, he met a customer who had just made a purchase and who was putting his wallet back into his pocket as he approached the door. Jack grabbed the wallet from him and ran off, but he tripped as he was going out the door. The customer grabbed hold of him in an attempt to retrieve his wallet, but Jack stabbed him in the arm with the knife which he was carrying. He then absconded with the wallet which contained about £500 in cash. The entire episode was captured on CCTV and Jack was arrested a short time later while still in possession of the wallet. You are requested to advise as to the offence(s) with which Jack may be charged in these circumstances and of any defence which he might have.

5. Ross, his wife Sinéad, and Ross's nine-year-old son Ronan were walking along a street in Dublin when Sinéad noticed a designer handbag in a shop window with a price tag of €1,000. She stopped to admire it, proclaiming that it was "a bag to die for" and that she could not imagine how anyone could possibly live without it. Ross replied in rather crude terms that no bag was worth that amount of money, but Ronan assured her that he did not foresee any problem about acquiring it. About 20 minutes later, they went into a café to have coffee and while they were there Ronan disappeared. He reappeared shortly afterwards and presented Sinéad with the handbag which she had earlier been admiring. It subsequently transpired that he went back to the shop in question, took the handbag from the window display, rather brusquely informed the store detective on the way out that he would not be seeing the handbag again, and ran back to the café with it. After a great deal of soul-searching, Sinéad decided to keep the bag on the basis her life would be meaningless without it. Later that evening, while Ross was out drinking with his friends, he met a young woman in a pub and began to regale her with the story of his son taking the handbag. Unknown to him, the woman happened to be an off-duty member of the Gardaí who immediately alerted one of her colleagues who, in turn, went to Sinéad's house, and found the bag. You are
asked to advise as to the charges, if any, that might be brought against Ronan and/or Sinéad and as to any defences that might be available to either of them.