THE HONORABLE SOCIETY OF KING’S INNS

ENTRANCE EXAMINATION

AUGUST 2014

EXAMINATION: Criminal Law

DATE: Tuesday 19 August 2014

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.

This paper is 4 pages long including the cover sheet. You should check that you have all the pages and inform the invigilator immediately if any are missing.
1. The late Michael Brown had two sons, Peter and Thomas. Michael owned a large and valuable farm of land which he operated together with his son Peter who had remained working on the farm since he left school in 1995. Thomas, the other son, had left home about that time and became a civil servant, although he kept in close contact with his parents. Peter, who suffered intermittently from depression, always assumed that he would inherit the farm on his father’s death. (His mother had died in 2006.) One day in May 2014, Peter overheard a conversation between his father and Ned, one of his father’s closest friends. To his dismay, he heard his father telling Ned that he had made a will leaving the farm to his son Thomas who, he said, was always his favourite. He said that while Peter was a hard worker, he could also be unstable and there was no guarantee that he would maintain the farm after he (Michael) had passed on. Peter said nothing to his father at that point. However, a few evenings later, he went to the local pub where he had a good deal to drink. By the time he got home he was quite inebriated. He confronted his father who happened to be standing on a patio at the back of the house. He asked his father if it was true that he had willed the farm to Thomas, and his father confirmed that he had. Once his father said this, Peter struck him a single blow on the head. His father toppled over as a result of the blow and hit his head against a concrete wall. He lost consciousness as a result. Peter tried without success to resuscitate him and called for an ambulance. Michael was dead on arrival at the hospital. Peter has now been charged with Michael’s murder. Advise him as to whether the prosecution is likely to succeed in proving murder in these circumstances and, if it does, of any defence that may be available to him.

50 Marks

2. Kate has been charged with an offence of having in her possession cocaine to the value of €100,000 for sale or supply contrary to section 15A of the Misuse of Drugs Act 1977. The drugs were found hidden in a wardrobe in her house following a police raid. Kate has told the police that she was storing the drugs for a man named Peter to whom her son, John, who is a drug addict, owned money. She states that some weeks before the police raid, Peter called to her house and handed her a large parcel which he asked her to store in a safe place until he returned to collect it. She asked him if it contained drugs and he replied that it did. She had told him that she wanted to have
nothing to do with it and asked him to take it away. He replied that if she did not do as she was told, he would see to it that “before long”, her son John would be shot dead. She was aware that Peter had a reputation for being violent towards those who owed him money, so she reluctantly agreed to store the drugs. She states that she was afraid to go to the police in case Peter retaliated by injuring or, worse still, killing her son. In short, she claims that while she was aware that she was storing the drugs, she was doing so under duress. Advise her as to whether she can successfully rely on this defence at her forthcoming trial.

25 Marks

3. Ronan, who was born in 1996, works in a supermarket. In mid-June 2014, Fiona got a summer job in the same supermarket. She and Ronan became very friendly, and she repeatedly told him that she had just completed her leaving certificate examination and was planning to go to university in the autumn. One evening in late June 2014, he invited her out for a drink. Afterwards they went back to his apartment and engaged in some sexual intimacy. He suggested that they have sexual intercourse, but she refused. He then said to her that he had seen her on a number of occasions taking some groceries from the supermarket without paying for them and that if she did not have intercourse with him, he would tell the manager and she would probably lose her job. Having heard this, Fiona reluctantly agreed to have intercourse with him. However, the next day she made a complaint to the Gardaí that she had been raped by Ronan the previous night. As they began to investigate the matter, the Gardaí discovered that Fiona, in fact, was only 16 years of age and had just completed her junior certificate examination. Ronan, when interviewed, claimed that he assumed that Fiona was at least 17 years of age. The Gardaí have forwarded a file on the matter to the Director of Public Prosecutions who has sought your advice as to the charges, if any, that may be brought against Ronan. Advise the Director.

25 Marks
4. Paul, who is 19 years of age, lives with his mother in Tipperary. His father, William, who is divorced from Paul’s mother, lives in Dublin. In July 2014, William phoned Paul and said he was just about to go abroad for a two-week holiday and that Paul was welcome to stay in his apartment in Dublin while he was away. Paul accepted the invitation and his father arranged to leave the key to the apartment with a neighbour. Some days later, Paul and his girlfriend Shona went to Dublin, collected the key and settled into William’s apartment. Before leaving, they discovered what appeared to be a valuable collection of gold jewellery in a drawer. They took some of it and brought it to a jeweller, Seamus, who examined it and offered to buy it for €500 which they accepted. It transpires that the items in question were worth about ten times that amount. On William’s return he noticed that some of the jewellery was missing and he alerted the Gardaí. Following an investigation, they discovered what had happened. They have now forwarded a file to the Director of Public Prosecutions who has sought your advice as to the charges, if any, that may be brought against Paul, Shona and Seamus. Advise the Director.

25 Marks

5. Patrick has been charged with an offence under the Clean Towns Act which provides that it is an offence for the occupier of any premises adjoining a public road or street to fail to keep that part of the road or street immediately outside the premises free of litter. Following summary conviction, the offence carries a maximum fine of €4,000 with the possibility of a further fine not exceeding €700 for each day during which the breach of the Act continues. Patrick is the owner of a grocery shop and he claims that he makes every effort to keep the footpath outside his shop clean and free of litter but that it is an impossible task because there is a take-away nearby and customers of that take-away are forever dropping litter outside of his premises. When he made this point to the officials responsible for enforcing the Clean Towns Act, they told him that it was no excuse, as the offence is one of absolute liability. He is shortly due to appear before the District Court to answer the charges and he has sought your advice as to whether the court is likely to interpret this offence as one of absolute liability and, if so, whether he might later be successful in challenging the constitutionality of the statutory provision in question. Advise him.

25 Marks