THE HONORABLE SOCIETY OF KINGS INNS

ENTRANCE EXAMINATION

AUGUST 2016

Examination: Criminal Law
Date: Tuesday 16 August 2016
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 answer Question 1 and two other questions.

Question 1 carries 50 marks. All other questions carry 25 marks each.

This paper is 5 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. John is facing trial for the murder of Kenneth, who died in the following circumstances. On 10 July 2013, as Kenneth was leaving a bookmaker’s premises in Dublin, a man approached him and shot him twice in the head and chest. He was rushed to hospital where he remained in a permanent vegetative state until his death on 3 October 2015. The immediate cause of his death was pneumonia which he developed as a result of contracting an infection while in hospital. Very soon after the shooting took place, John was identified as a suspect. On being interviewed by the gardaí, he admitted that he had shot Kenneth, but he claimed that he had done so because his own life was in danger. He said that Anthony, a drug dealer to whom he owed a large sum of money, had ordered him to kill Kenneth, who was also a drug dealer. John claimed that Anthony had threatened that he (John) would be assassinated if he did not kill Kenneth. You are requested to advise John’s lawyers on the following matters:

(1) Can John lawfully be convicted of murder in light of the circumstances in which and the date on which Kenneth died?

(2) Will duress be potentially available as a defence to John on the murder charge?

Please note that these are the only two issues that should be addressed in your answer.

[50 marks]
2. In June 2016, Michael, a 68-year-old man of previously unblemished character, was convicted of the murder of a neighbour, Gerry. There had been a long-running dispute between Michael and Gerry over a hedge which separated their two properties. Michael, a wildlife enthusiast, wanted to allow the hedge to continue to grow because birds nested in it, whereas Gerry wanted to cut it back substantially. One morning in April 2016, Michael noted that the hedge had been cut back. At 11.00 a.m. that day, he confronted Gerry who admitted that he had cut back the hedge and who told Michael in very vulgar terms to mind his own business. At 6.00 p.m. that evening, Michael got an old (licensed) shotgun which he kept in his house, went over to Gerry’s house and shot Gerry twice in the chest. Gerry died a few hours later from the gunshot wounds. At Michael’s trial for murder, evidence was given by two consultant psychiatrists that, at the time of the shooting, Michael was suffering from dementia which would have impaired his judgment and made it very difficult for him to control his emotions. It was accepted by both defence and prosecution that Michael was not, at the material time, legally insane or acting under provocation (and neither of those defences need be discussed in the answer to this question). At the conclusion of the trial, the judge had instructed the jury that if they were satisfied that Michael’s act in shooting Gerry was premeditated, Michael’s mental condition provided him with no defence whatever. Michael was convicted of murder. Advise his lawyers of any ground on which, in your opinion, he might appeal against his conviction.

[25 marks]

3. Late one evening in June 2016, Peter decided to enter an old mansion house which he believed to be unoccupied and which was located close to where he lived. He had long been fascinated by the house and he had entered it through an open window just to see what it was like inside. When he entered one of the back rooms of the house, he was surprised to find the light on and a woman sitting there on her own. This woman, it later transpired, was Jane who owned the house and who led a very reclusive existence. She also drank quite a lot and was heavily intoxicated when Peter entered the room. She engaged him in conversation and offered him a drink, which he accepted. Sometime within the next hour,
Peter had sexual intercourse with Jane. The following day, Jane complained to the gardaí that Peter had raped her. When interviewed by the gardaí, Peter admitted that he had sexual intercourse with Jane but claimed that it was with her consent. He did, however, accept that she was heavily intoxicated at the time. Jane, for her part, has stated that she was so intoxicated that she cannot recall for sure if she gave Peter any indication that she was consenting but she is adamant she would not have wished to have intercourse with him. You are requested to advise the Director of Public Prosecutions as to the charges, if any, that might appropriately be brought against Peter. Give reasons for your advice.

[25 marks]

4. Shane had been in a relationship with Nicola for two years. In early June 2016, Nicola ended the relationship and began a new relationship with Gareth, who owned a shop in the neighbourhood. Shane was greatly distressed and angered by Nicola’s decision. One day, in early July 2016, Shane went to Gareth’s shop. Shane was carrying a pistol which he legally held. He entered the shop and shot Gareth twice in the stomach. Gareth was quickly rushed to hospital by ambulance. The doctors managed to save Gareth’s life, although they said that he would have died if the ambulance had not arrived almost immediately at the scene of the shooting. You are asked to advise the Director of Public Prosecutions as to the charge(s) that may appropriately be brought against Shane in these circumstances. Give reasons for your advice.

[25 marks]
5. Alan is a heroin addict. One evening in May 2016, he approached a woman who was walking along a quiet street in Dublin. He tried to snatch her handbag but she resisted. He then kicked her, pinned her up against a wall, forcibly took her handbag and ran away with it. The bag contained some cash which Alan later used to buy heroin. He had consumed a great deal of alcohol throughout that afternoon and had injected himself with heroin shortly before committing the attack. When interviewed by the gardaí, he said that he had only a vague recollection of the entire episode as he was “out of his mind” on drink and drugs. You are asked to advise as to the charge(s) that may be brought against Alan in these circumstances and, also, as to any defence which he might have to any such charge that may be brought.

25 marks