THE HONORABLE SOCIETY OF KINGS INNS

ENTRANCE EXAMINATION

AUGUST 2015

Examination: Criminal Law
Date: Tuesday 18 August 2015
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 3 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 a drug addict who owed a considerable amount of money to Maurice who supplied him with drugs. Maurice approached John and told him that he wanted him to assassinate Shane who was one of Maurice’s rival drug dealers in the locality. John protested that he did not want to do such a thing, but Maurice, who was well known to be a ruthless, violent character, told him that if he did not shoot Shane, he (John) would be dead within a week. He gave John a loaded pistol and told him that he wanted the assassination carried out within three days. The following day, John kept a lookout for Shane and eventually saw him getting out of a car and going into a house where he was probably delivering drugs. John positioned himself outside the house and, as soon as Shane emerged from it, John discharged two shots at him, hitting him in the stomach on both occasions. Shane collapsed, but an ambulance was quickly called. He was brought to hospital where he was given emergency treatment with the result that he survived the attack. Unknown to John, the shooting was captured on a CCTV system which was operating in the locality. He was easily identified as the assailant. When interviewed by the Gardaí, he said that he did not intend to kill Shane, but he did intend to seriously injure him so that he could then tell Maurice that he had done his best to carry out the assassination. He has now been charged with attempted murder. His defence solicitor has sought your advice on the following questions; (a) is attempted murder the appropriate charge in these circumstances? and (b) if it is, does John have any defence available to him? Advise the solicitor.

2. In July 2015, Peter, who was then 18 years of age, met Mary and they entered into relationship. She told him that she was 17 years of age, although in fact she was only 16 years at the time and will not be 17 until November 2015. Over a period of some weeks, they had sexual intercourse on a number of occasions. One night in late July 2015, they attended a party and, afterwards, Mary stayed in Peter’s apartment. They slept in the same bed but did not engage in any sexual activity before falling asleep. During the night, Mary woke up and found Peter having sexual intercourse with her. She asked him to stop but he refused to do so. She was very upset by this experience and, the following morning, she reported the matter to the Gardaí. Peter, when interviewed, admitted that he had intercourse with Mary several times since they met but said he believed that she was over 17 years of age. He also admitted having sexual intercourse with her while she was asleep on the occasion just mentioned, but said that he assumed that “she would not mind.” The Gardaí have now forwarded a file on the matter to the Director of Public Prosecutions who has sought your advice as to charges that may be brought against Peter. Advise the Director.
3. Mary, an elderly woman, was having tea with a friend in a hotel foyer. She had left her handbag on the floor beside the armchair on which she was sitting. While she was talking to her friend, a man (whom we now know to be Kieran) came into the foyer, ran over to where Mary was sitting and grabbed her handbag. As soon as she saw what was happening, Mary tried to retrieve her bag from Kieran but he took a knife which happened to be on a nearby table and stabbed Mary in the hand. He then ran off with the bag which contained several valuable pieces of jewellery. Mary had to be brought to the accident and emergency unit of a local hospital to have stab wound treated and she was then discharged. Later that day, Kieran brought to the jewellery shop which sold antique and second-hand jewellery and offered to sell it to Michael, the shop owner. He offered to sell it for €100 but Michael eventually bargained him down to €60 which he accepted. In fact, the items in question were worth about €2,000 altogether. Give your advice as to the charges that may be brought against Kieran and Michael in these circumstances.

4. One night in June 2015, Denis, who was quite inebriated, tried to get into a nightclub but he was refused admission by George and Ross who were working as security officers or “bouncers” at the door of the club. A heated exchange took place between them, and at one point Denis said: “I suppose you two guys must be delighted that we now have same-sex marriage. Have you fixed a date yet?” As soon as he said that, George hit him a blow on the head, knocking him to the ground. While he was on the ground, George kicked him several times in the stomach and on the head. Denis became unconscious and had to be brought to hospital where he died shortly after arrival. George has now been charged with murder. When interviewed by the Gardaí, he said that he just “boiled over” as soon as Denis made the remark about same-sex marriage, particularly as his wife has just been informed that she had a serious, life-threatening illness. Advise George as to any defence that may be available to him in these circumstances.

5. Anthony was, until recently a very successful businessman. However, in recent years, his business had been in decline until eventually, early in 2015, it collapsed entirely. He owed a great deal of money to the banks and some of the loans were secured on the family home to which he and his wife, Sandra, were deeply attached and which he was now likely to lose. He had not told his wife of the extent of his financial difficulties. In May 2015, when it became clear that he would lose everything, including his home, he became deeply depressed. One night in late May, without warning, he took a shot gun which he legally owned and shot his wife dead in the living room of their house. He has now been charged with the murder of his wife. He has admitted the killing but said that he was acting out of good motives because he wanted to spare his wife the extreme hardship that she and he would suffer as a result of their financial ruin. There is psychiatric evidence to the effect that Anthony was suffering from reactive depression, which is a medically recognised condition, at the time of the killing. Advise Anthony as to whether, in these circumstances, he is likely to have any defence to the murder charge.