

Ollscoil na hÉireann, Gallimh
National University of Ireland, Galway

Semester II Examinations, 2003/2004

Exam Code(s)	2BL1, 2BL2, 3BL1, 3BL2, 4BL2
Exams(s)	2 nd 3 rd & 4 th LL.B
Module Codes(s)	LW330
Module(s)	Criminal Law
Paper No.	1
Repeat Paper __ Special Paper __	
External Examiner(s)	Professor J. Paul McCutcheon
Internal Examiner(s)	Mr. Tom O'Malley
<u>Instructions</u>	Answer FOUR questions
Duration	THREE Hours
No. of AnswerBooks	
<u>Requirements:</u>	
Handout	
MCQ	
Statistical Tables	
Graph Paper	
Log Graph Paper	
Other Material	
Department(s)	Law

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1. Larry is a 13-year-old schoolboy who was suspended for two weeks from his school for having misbehaved in certain ways. He felt very resentful about the suspension as he believed that others were more blameworthy than he, but they were not punished at all. In the early hours of the Saturday morning after the suspension took effect, he went to the house in which the school principal lived. The principal was friendly with Larry's parents and Larry knew that that particular weekend, the principal and his family were away in London. Larry brought with him a can of petrol and some matches. He poured the petrol in through the letter box of the house and sent a lighted match in after it. The house went up in flames. Unknown to Larry, a sister of the school principal was actually staying in the house that night and she died in the blaze. Larry has now been charged with murder. Advise him if he is likely to be convicted of murder in these circumstances.
2. Write an essay on the defence of provocation including in your answer an account of the test for provocation applied in the Irish courts and the manner in which the Irish law on this topic differs from English law.
3. Give a critical account of the circumstances in which a person may be found guilty of a criminal offence on the basis of an omission. Include in your answer any recommendations you would make for reform in this area of law.
4. Michael was visiting his neighbour Monica. Also present was Monica's brother, Stephen, who was home on holiday from America. They had a very congenial conversation and were discussing American politics. At one point, Stephen said that in the next congressional elections he would be supporting a particular candidate. As soon as he said this, Michael grabbed an iron tongs from the fireside and attacked Stephen with it, hitting him forcefully on the head. Michael himself then collapsed but recovered a short time later after a doctor arrived on the scene. Stephen sustained serious head injuries and is likely to suffer permanent brain damage as a result of the attack. Michael has now been charged with causing serious harm contrary to section 4 of the Non-Fatal Offences Against the Person Act, 1997 which carries a maximum sentence of life imprisonment. There is medical evidence that at the time of the attack, Michael, who is a diabetic, was in a hyperglycaemic state as he had neglected to take his regular dosage of insulin. Advise Michael of any defence available to him and, in more general terms, indicate how you would advise him to approach the case.
5. In April 2004, John Brown, a widower with three teenage children, married Kitty Black, a widow with two grown up children. The wedding reception was held in a hotel and lasted until the small hours of the morning. Michael Black (aged 18 years), a son of Kitty, had spent a good deal of the evening in the company of Imelda Brown (aged 16 years), daughter of John. Both had a good deal to drink and at about 2.00 a.m., Michael accompanied Imelda to her room. During their earlier conversations, she had told him that she was a singer and that she wanted to have a career as a professional singer with a band (which was true). He told her that he was a producer with a leading talk show on Irish television and that he had extensive links with the music industry. He claimed that a well-known promoter of young bands was his best friend. All of this was untrue. After they had spent a while in his room, he asked her to have sexual intercourse with him. She refused but he told her that unless she had sex with him, he would not use his influence to get her a start in the music business and would never talk to her again.

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Having heard this, she reluctantly agreed to have intercourse with him. He then left and she never saw him again. When she discovered that Michael Black had been telling her lies, she made a complaint to the police that she had been raped by him on the occasion in question. The Director of Public Prosecutions has sought your advice as to the charges, if any, he can bring against Michael Black. Advise the Director, giving reasons for your advice.

6. Michael hired out a "bouncing castle" for his daughter's tenth birthday. When the children's party was over, Michael and his wife invited some friends around to their house for a barbecue. One the guests, Teddy, was a rather corpulent person and there were often jokes among his friends about his weight. After everybody had eaten and they were sitting around in the garden having drinks, somebody asked as a joke if the bouncing castle would be strong enough to sustain somebody of Teddy's weight. Michael and two friends, Denis and Jack, grabbed hold of Teddy and threw him on to the bouncing castle. Unfortunately, he fell through the plastic covering of the castle and hit the ground underneath. Worse still, he still his head against a rock and, despite the best efforts of Micheal and all the others, he died of the head injuries a short time later. Michael, Denis and Jack have now been charged with manslaughter. Advise them as to whether they are likely to be convicted of manslaughter in these circumstances. Give reasons for your answer.
7. Write an essay on the meaning of "theft" as defined by section 4 of the Criminal Justice (Theft and Fraud) Offences Act, 2001, indicating where appropriate, how it differs from the former offence of larceny.
8. Answer (a) and (b)
 - (a) Peter entered without permission a house belonging to a stranger and went upstairs in search of money or other goods to steal. He found a quantity of jewellery which he brought out of the house with him. As he was going down the pathway from the door to the front gate, the owner, Mary, came around by the side of the house and tried to stop him getting away with the jewellery. Peter hit Mary on the head and knocked her to the ground. She fell on to the lawn and broke her arm as a result of the fall. Peter was later arrested. Advise the Director of Public Prosecutions as to the offence(s) with which Peter may be charged. Give reasons for your answer.
 - (b) Mary collects 19th century porcelain dolls. One day, she was approached by a man whom she did not know and who told her that he had some 19th century porcelain dolls for sale at a reasonable price if she was interested. She told him that she was but that she would need to see the dolls first. The next day, he brought three dolls around to her house. She examined them and was satisfied that they were authentic. He offered to sell them to her for €150 each. This took her by surprise as such dolls usually sold for about €1,000 each. She did not ask where he got them, but she bought the three dolls from him for €450 and discovered that his name was Jonathan Bloggs. A few weeks later Mary read that Mr Bloggs had been charged with stealing several 19th century porcelain dolls from a museum in Dublin. She is satisfied that the three he sold to her were among those stolen. She has sought your advice as to whether she is now in danger of being charged with any criminal offence. Advise her.

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