



THE UNIVERSITY OF THE WEST INDIES

EXAMINATIONS OF JULY 2006

CODE AND NAME OF COURSE: LA10B (LAW1020) – CONSTITUTIONAL LAW

DATE AND TIME:

DURATION: 3 HOURS

INSTRUCTIONS TO CANDIDATES: This paper has 2 pages and 6 questions.

Answer any **THREE (3)** questions. Answers may be confined to the law of any jurisdiction in the Commonwealth Caribbean unless the context indicates otherwise.

1. To what extent do the courts permit themselves to intervene in the legislative process before a bill has been passed by the Houses of Parliament and has received the assent of the Head of State?

2. The Attorney-General of a Commonwealth Caribbean State of your choice has requested that you advise him as to whether any of the following proposals for legislation is inconsistent with the constitution:
 - (a) to provide that persons who are convicted of serious wounding offences shall be imprisoned during the pleasure of the Head of State;
 - (b) to empower the Comptroller of Customs to impose, by Order, such levy as he sees fit on imported motor vehicles; and
 - (c) to empower the Commissioner of Prisons to select the instrument to be used and the degree of force to be applied in carrying out a sentence of corporal punishment on a prisoner.

Advise the Attorney-General.

3. "In West Indian [Constitutional] law, it is submitted that the rule of law has come to mean the exercise of state power according to law and the subjugation of state power to the constitution". Do you agree with this statement?

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4. The Parliament of a Commonwealth Caribbean State of your choice passed The Caribbean Court of Appeal Act (hereinafter referred to as "the Act") by its ordinary process. The Act is intended to provide for the establishment of the Caribbean Court of Appeal as a Court of final appellate jurisdiction.

Section 3 of the Act provides that:

- (a) the Judges are to be appointed by the CARICOM Council of Ministers;
- (b) the budget and expenditure of the Court are to be under the control of the CARICOM Secretariat; and
- (c) the remuneration of Judges is to be adjusted in accordance with increases or decreases in the cost of living.

There is no provision made for the entrenchment of the Court in the Constitution.

Advise on the constitutionality of the Act.

5. Do you think that Parliament has been accorded too much protection in the conduct of its internal affairs?
6. Explain the importance of prerogative power and the extent to which it survives or has been replaced in any independent Commonwealth Caribbean state or states of your choice.

END OF PAPER