These are thought questions to consider after briefing Dudley and Stephens. Some have clear answers, some do not. and some require information I will cover in class.

**1. Brief of Dudley**

Questions:

A. What would judge get out of this conviction?

B. What would society get out of this conviction?

C. What do you think public opinion was about

this case? Did case reflect current opinion at

the time?

D. Why would Crown want a conviction and then a commutation?

E. What is the role of criminal law in a society and what is the role of judges in enforcing it?

F.What was the state's proof in this case?

G.Did Dudley and/or Stephens know what they were doing was wrong? What evidence do we have one way or the other? Is this relevant to the

outcome? Should it be? Was it to Coleridge?

H. Was justice done?

I. What was the basis of the Court's

jurisdiction? Were these men in the Hobbesian

state of nature?

J. Where is the essence of the court's reasoning? p. 286 long paragraph- 3 themes

higher duty, easy rationalizations, problem of standards-comparative worth(what is the basis of comparative worth in Sherrod?

K. Why all this attempt to show prior authorities agreed or had no position?

L point of view- cannibalism and common law by Simpson vs. killing humans for food and the common law.

M. What if Dudley ordered Stephens to do the killing, did Stephens have to follow his

command?

N. Technique for choosing who to kill and eat.

0. What is the function of the legal system? Commandment Thou shalt not kill?

P. Stephen- criminal law is a system and collection of threat to injury to life, liberty and property if people do commit crimes; are such threats to be withdrawn as soon as they are encountered by opposing threats? law says if you kill this man, we will hang you. Is law to withdraw when someone else say, if you do not do it, I will shoot you? And who should decide if the law can withdraw its threat at this point in time?

Q. Does character of D and S play a role here? what if caught fleeing, 3 time offenders etc. Dudley a doctor and knew for certain that Parker was going to die and killed him shortly before death to preserve more blood and edible flesh.

R.What or who makes people responsible to someone else for their actions? Who should do it?

**2. Brief of Sherrod?** Questions:

1.Measure of hedonic value according to expert? 8 times out of pocket

2.What is section 1983? We will see it several times in this course?

3.What does case say about value we place on life in the U.S.?

4. Wht power does this case give to a judge or should I say a judge gives to himself and other judges? Is this an example of a judge just expanding his or her ability survive and creating a self support system?

5. What is the role of legislature in all this or what should it be? Can the legislature ever specify how it wants damages assessed?

Murphy v. Martin Oil-quote and judicial change in law.

**3. What is the main point or what are the main points of Crimes Without Criminals?**

1.Which is due process and which is crime control model?

2. What does due process mean?

3. What does it mean that deviance is what officials say it is? Examples at this university?

4. Currie says mental illness and drug addictions are invented deviance-has 25 years of experience proved him right?

5. Systems of repressive control or analogies to such a system which in the nature of things tend to develop a greater vested interest in the successful prosecution of deviants than do restrained systems? Bork and Thomas.

6. What are some of the differences between an inquisitorial and an accusatorial system?

7. Quote

“systems of repressive control, in the nature of things, tend to develop a greater vested interest in the successful prosecution of deviants than do restrained systems. Create a large frightful deviant population.

Vested interests may be political, religious, or psychic rather than economic- also notion of McCarthyism and McCarthyite tactics.”