

**'A' LEVEL LAW**

**GENERAL PRINCIPLES OF  
CRIMINAL LAW**

STUDY UNITS AND EXAM QUESTIONS  
2000-2001

**ASIF TUFAL**

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## ACTUS REUS

### PROGRESS TEST

1. What is meant by the term *actus reus*?
2. What is a "conduct crime" and what is a "result crime"?
3. What is meant by the term "the conduct must be willed"?
4. Give a case example of the situation where the conduct of a person would not be "willed".
5. Give an example of a crime where a state of affairs constitutes the *actus reus*.
6. Give an example of a crime where an omission to act may constitute the *actus reus*.
7. What is meant by the term "causation"?

### TUTORIAL QUESTION

Consider the existence of an *actus reus* in the following situations:

- (a) Jack and Jill were having a picnic on a farm. Jack lit a fire near a haystack. The haystack caught fire and burnt the barn next to it. Jack and Jill ran off and did nothing to prevent the spread of the fire. Jack has now been charged with arson.
- (b) Bruno, Tyson and Eubank were arguing. Bruno was holding a knife in his hand. Eubank pushed Bruno's elbow with the result that Tyson was stabbed and later died. Bruno has been charged with murder.
- (c) Mitch was the lifeguard at Baywatch Swimming Pools. He was employed to look after children in his pool. While he was on duty a child drowned but he did not notice it because he was chatting up Pammy. Mitch has been charged with manslaughter by negligence.

**EXAM QUESTIONS**

1. Explain what is meant by the term 'causation' in criminal law and assess how the courts have interpreted its significance in determining liability.

(OCR, June 2000)

2. 'In general, the criminal law prohibits the doing of harm but does not impose criminal liability for an omission to act.'

Assess the truth of this statement and the arguments used to justify it.

(OCR, June 1999)

3. "If the criminal law is to command respect, it must punish only those omissions to act which are morally reprehensible and worthy of serious condemnation."

With reference to the above statement, critically consider the circumstances in which criminal liability may be imposed for an omission to act.

(Oxford Board, June 1997)

4. Analyse the circumstances in which a person may be criminally liable for an omission to act.

(Oxford Board, June 1994)

## MENS REA

### PROGRESS TEST

1. What is meant by the term *mens rea*?
2. Explain the two types of intention.
3. What is the effect of s8 of the Criminal Justice Act 1967?
4. What points were made by the Court of Appeal in *R v Hancock* and *R v Nedrick*, and more recently by the House of Lords in *R v Woollin* (22 July 1998)?
5. Does a person intend consequences which he believes are:  
(a) virtually certain to result from his unlawful act?  
(b) possible to result from his act?  
(c) not likely to result from his act? (Yes or No)
6. What is meant by the term recklessness?
7. Distinguish between *Cunningham* recklessness and *Caldwell* recklessness.
8. What is the Caldwell loophole?
9. What is meant by the term negligence?
10. What is the test for negligence?
11. (a) What is the doctrine of transferred malice?  
(b) What are its limitations?
12. What is meant by the saying "*mens rea* and *actus reus* must coincide"?
113. In which two ways have the courts dealt with any problems a literal interpretation of this rule might lead to? (Give examples)

### EXAM QUESTIONS

1. Discuss how successful the courts have been in defining the concept of intention.  
  
(OCR, June 1999)
2. 'The *Caldwell* test fails to make a distinction which should be made between the person who knowingly takes a risk and the person who gives no thought to whether there is a risk or not.'  
(*Smith and Hogan*, 1992)  
  
Consider the meanings of 'recklessness' in criminal law which gave rise to this criticism, indicating to what extent you agree with the criticism.  
  
(Oxford Board, June 1998)
3. Critically consider how the courts have defined 'intention'.  
  
(Oxford Board, June 1997)

4. Critically assess the meaning of the term 'reckless' in criminal law.  
(Oxford Board, June 1996)
  
5. "The repeated attempts of the House of Lords to define the meaning of intention have been unsatisfactory. The need for a statutory definition has never been more compelling."  
  
Critically evaluate the validity of the above statement.  
(Oxford Board, June 1995)
  
6. The term "reckless" plays a crucial role in determining criminal liability yet its meaning still appears uncertain.  
  
Critically assess the meaning of the term "reckless" in criminal law.  
(Oxford Board, June 1994)
  
7. "I do not consider that foresight of a high degree of probability is at all the same thing as intention. It is not foresight but intention which constitutes the mental element of the offence."  
(Lord Hailsham in *Hyam v DPP* (1974))  
  
Critically discuss the way in which the appellate courts have dealt with the relationship between foresight of consequences and intention.  
(Oxford Board, June 1993)
  
8. "Reckless" should today be given the same meaning in relation to all offences which involve "recklessness" as one of the elements unless Parliament has otherwise ordained.' (Lord Diplock, in *R v Seymour* (1983))  
  
Is there any justification for applying more than one definition to the concept of recklessness?  
(Oxford Board, June 1992)
  
9. Critically assess the current law regarding the mens rea of murder.  
(Oxford Board, June 1991)

## STRICT LIABILITY

### PROGRESS TEST

1. What are offences of strict liability?
2. What is meant by the term "absolute liability"?
3. What is meant by "the presumption in favour of *mens rea*"?
4. In what circumstances may the presumption be displaced?
5. Briefly state the judicial criteria for the imposition of strict liability.
6. Explain the three types of offence where the courts have been willing to impose strict liability.
7. Briefly list the arguments put forward in favour of crimes of strict liability.
8. Briefly list the arguments made against crimes of strict liability.
9. What alternatives are there to crimes of strict liability?
10. What proposals for reform have been made?

## **EXAM QUESTIONS**

1. "Strict liability offences are contrary to fundamental legal principle. The imposition of criminal liability without reference to the state of mind of an accused person can never be justified."

Consider why and in what circumstances the courts recognise the existence of crimes of strict and absolute liability.

(OCR, June 2000)

2. 'Strict liability must be retained. It provides social benefits which would not otherwise be obtained and the injustice caused by it is often exaggerated.' Discuss.

(Oxford Board, June 1998)

3. How do the courts ascertain when the imposition of strict liability for a criminal offence is justified?

(Oxford Board, June 1996)

4. "The fact that Parliament has created so many strict liability offences does not establish the necessity of their existence. Strict liability offences are only necessary if there is no other means of achieving the ends of protecting the public and enforcing the law."

Analyze this view of strict liability.

(Oxford Board, June 1995)

5. In what circumstances is the imposition of strict liability for a criminal offence appropriate?

(Oxford Board, June 1993)

6. Is the imposition of strict liability ever justifiable in criminal law?

(Oxford Board, June 1991)

## PARTICIPATION

### PROGRESS TEST

1. What is a principal?
2. What is an accomplice? (State the relevant statutory provision)
3. Explain the doctrine of innocent agency.
4. What is an aider?
5. What is an abettor?
6. What is a counsellor?
7. What is a procurer?
8. Explain if presence alone is sufficient to make a person liable as an accomplice?
9. Can a person be an accomplice by inactivity?
10. What *mens rea* must be proved on the part of a secondary party?
11. What is a "joint enterprise"?
12. Is an accomplice liable for all consequences that flow from the common design? (Give one case for each of the two principles)
13. In what circumstances can a person be convicted as an accomplice to murder?
14. In what circumstances may "withdrawal" from an enterprise be pleaded a defence?
15. Can a secondary party be liable if the principal offender is acquitted?
16. Can a person be liable for assisting an offender after the commission of an offence?
17. What proposals for reform of the law have been made?

### EXAM QUESTIONS

1. 'We approach s.8 of the 1861 [Accessories and Abettors] Act on the basis that words should be given their ordinary meaning, if possible. We approach the section on the basis also that, if four words are employed here, 'aid, abet, counsel or procure', the probability is that there is a difference between each of those four words and the other three, because, if there was no such differences, then Parliament would be wasting its time in using four words where two or three would do.'

[per Lord Widgery CJ in the *Attorney-General's Reference* (No. 1 of 1975)]

Critically consider how the courts have interpreted the words 'aid, abet, counsel or procure'.

(OCR, June 1999)

2. Del and Rodney agree to steal jewellery from Lady Windermere's country house. Del buys a gun from Max, who knows of Del's reputation as a violent criminal. When Rodney finds out that Del is going to be carrying a gun he decides to withdraw from their plan. When he tells Del this, there is some discussion and Rodney reluctantly agrees to go ahead on the condition that Del does not load the gun but uses it only to frighten anyone they might encounter.

On the night in question Rodney sees that Del has a revolver apparently loaded with bullets. 'They are only blanks!' Del assures him. Rodney is not sure whether to believe him or not. They break in to the house and carry out their plan but, as they are leaving, they are suddenly confronted by Soames, Lady Windermere's valet. Del pulls out the gun and deliberately shoots Soames dead.

Discuss the criminal liability, if any, of Del, Rodney **and** Max for the death of Soames.

(Oxford Board, June 1998)

3. Critically examine the *mens rea* required for conviction as an accomplice.

(Oxford Board, June 1997)

4. Critically assess the *mens rea* required for conviction as an accomplice.

(Oxford Board, June 1996)

5. Using cases to illustrate your answer, critically consider whether the words "aid, abet, counsel and procure" each have a separate meaning.

(Oxford Board, June 1994)

6. Alf tells Del that his neighbours, Ernie and Freda, will be away on holiday over Easter and that they have valuable diamonds in the house. Del suggests that Alf joins him in burgling the house. Alf agrees. Del asks Brian to supply a large screwdriver for "a job". Brian agrees understanding Del to mean burglary by "a job". A week before the planned burglary, Alf tells Del that he does not wish to take part and pleads with Del not to do the burglary. Instead Del asks Colin to help him. Colin has a history of violent crime and always carries a knife. Although Del knows this, he considers that there will be little chance of violence being necessary because the house will be empty.

Colin and Del use the screwdriver to break into the house. Ernie is asleep in bed having decided not to go away for Easter. He is awakened by the noise and when investigating, Colin stabs him with the knife and kills him.

Assuming that Colin and Del committed burglary, and Colin murdered Ernie, consider the liability of Alf, Brian and Del as secondary parties.

(Oxford Board, June 1993)

7. Critically evaluate the *mens rea* required for conviction as an accomplice.

(Oxford Board, June 1992)

## INSANITY

### PROGRESS TEST

1. What is the definition of insanity in the *M'Naghten Rules*?
2. What is a defect of reason?
3. What is the "nature and quality" of an act?
4. When is an act "wrong" within the Rules?
5. What is a disease of the mind?
6. What is the result of a successful plea of insanity?
7. Who can raise the question of insanity?
8. How can the courts deal with a defendant found not guilty by reason of insanity?
9. What criticisms have been made of the *M'Naghten Rules*?
10. What proposals for reform have been recommended?

### EXAM QUESTIONS

1. Compare and contrast the defences of diminished responsibility and insanity.  
(OCR, June 1999)
2. See problem Q2, p13.  
(Oxford Board, 1997)
3. Evaluate the effectiveness of insanity as a defence.  
(Oxford Board, 1996)
4. "Even though the law relating to insanity has recently been reformed, there is still much that could be done to improve it."  
  
With reference to the above statement, critically assess the state of the law relating to the defence of insanity.  
(Oxford Board, June 1995)
5. Has the defence of insanity developed in a satisfactory manner or is the law in need of further reform?  
(Oxford Board, June 1993)
6. Critically evaluate the McNaghten Rules. Are they an appropriate test for insanity in the modern world?  
(Oxford Board, June 1991)

## AUTOMATISM

### PROGRESS TEST

1. What is automatism?
2. When is it available as a defence?
3. Give examples of external factors.
4. What happens if the automatism was self-induced?
5. What is the effect of a successful plea of automatism?

### TUTORIAL QUESTION

Samson is a diabetic. He is required to take insulin regularly to control his condition. On one occasion he took insulin as prescribed but, not having eaten, he became semi-conscious whilst driving his car. He lost control of the car and it collided with Delilah, a pedestrian. Delilah was taken to hospital suffering from multiple fractures.

- (a) Discuss Samson's liability.
- (b) Would your answer be different if Samson's loss of control had been caused by a failure to take his insulin?

### EXAM QUESTION

Roger, while playing football, receives concussion following an accidental clash of heads with another player. Roger has to leave the game and, whilst walking back to the dressing room in an impaired state of consciousness, strikes Steve, the opposing team's manager, in the face, causing a severe fracture of the jaw. Steve is taken to hospital, while Roger is treated by the club doctor. He tells Roger that the concussion will pass in a day or two but, meanwhile, he should refrain from drinking alcohol of any sort as this will greatly increase the risk of erratic behaviour.

Later that evening, Roger visits his local pub and consumes four pints of beer and two small whiskies. He becomes confused and aggressive and throws his glass at the wall causing it to shatter. When Harry the barman tries to calm him down, Roger punches him in the mouth causing minor bruising.

Consider Roger's criminal liability.

(Oxford Board, June 1996)

## DURESS

### PROGRESS TEST

1. What is duress?
2. What is the result of a successful plea of duress?
3. What type of threat must be shown?
4. What is the test for duress?
5. What is the requirement of immediacy?
6. What rules apply if a defendant voluntarily joins a criminal organisation?
7. To which offences is the defence unavailable?
8. What proposals for reform have been made?

### TUTORIAL QUESTION

Angel was kidnapped by a terrorist organisation, ENEMY. Ugly, an agent for ENEMY contacted Innocent, Angel's brother and informed him that, unless he seriously injured Douglas, an agent for a rival organisation, Angel would be killed. Ugly told Innocent not to contact the police and to show that the threat was serious he sent Innocent a toe severed from Angel's foot. Innocent waylaid Douglas on his way home one night. As a result of the attack, Douglas suffered severe injuries.

Discuss the liability of Innocent. Would your answer differ if Douglas had died as a result of the attack?

### EXAMINATION QUESTIONS

1. The defences of duress, necessity and duress of circumstances all recognise that a person ought not always to be regarded as criminally liable if he or she feels compelled to act against their will.

Critically evaluate how **and** why the courts have limited the availability of these defences.

(Oxford Board, June 1998)

2. Richard is an 18 year old student who lives with his domineering father, Steven, and his mother, Tilly, who is a diabetic. Steven has subjected Richard to regular and quite violent beatings for many years.

Steven has been involved in a long standing dispute with a neighbour, Vinnie. Steven orders Richard to lie in wait for Vinnie and stab him to death. Terrified of further beatings, Richard picks up what he believes to be a hunting knife. In fact, it is a dummy knife of the type used in film and television and, as Richard stabs Vinnie, the blade slips harmlessly into the handle and Vinnie escapes unharmed.

On hearing what Steven ordered Richard to do, Tilly becomes so distressed that her diabetes becomes unstable causing hyperglycaemia (a high blood sugar level). Whilst in this state she shoots Steven in the head with a shotgun as he, apparently, lies sleeping in bed. Medical evidence shows conclusively that before Tilly shot Steven, he had died from a heart attack.

Consider the criminal liability of Richard and Tilly.

(Oxford Board, June 1997)

3. Evaluate the effectiveness of duress (including duress of circumstances) as a defence.

(Oxford Board, June 1995)

4. Evaluate the effectiveness of duress as a defence.

(Oxford Board, June 1994)

5. To what extent should duress and necessity be defences?

(Oxford Board, June 1992)

## NECESSITY

### PROGRESS TEST

1. Is there a defence of necessity in English law?
2. What arguments have been given against allowing a defence of necessity? (see *Dudley and Stephens* and *Southwark LBC v Williams*)
3. What is the pragmatic approach to genuine cases of necessity?
4. What is "duress of circumstances"? (see *R v Martin*)
5. When is the defence available?
6. How will a judge direct a jury on the defence of duress of circumstances?
7. For how long does duress of circumstances excuse the commission of an offence?
8. What link must be shown in order to rely on the defence? (see *R v Coles*)
9. To what offences does the defence of duress of circumstances apply?

### EXAM QUESTIONS

1. The defences of duress, necessity and duress of circumstances all recognise that a person ought not always to be regarded as criminally liable if he or she feels compelled to act against their will.

Critically evaluate how **and** why the courts have limited the availability of these defences.

(Oxford Board, June 1998)

2. Dimitri, the owner of The Eggson Face, an oil tanker, is facing financial ruin. He plants a bomb on the ship. The bomb is timed to explode in mid-Atlantic so that he can claim the insurance money when the ship is destroyed. He realises that when the bomb explodes, the ship will sink and cause loss of life.

Consider the criminal liability of Dimitri in the following circumstances:

- (a) The bomb explodes killing Fred and Ted, two crew members.

Consider the criminal liability of Jim in the following circumstances:

- (b) Following the explosions the ship begins to sink. Jim is helping some injured crew members up a ladder from their sleeping quarters to the lifeboats. Captain Pugwash, who cannot swim, clings to the ladder in a state of terror blocking the way. He refuses to move. Jim knows that Pugwash cannot swim, but also realises that if Pugwash does not move they will all die. Jim screams at Pugwash to move, but he does not respond. Jim pulls Pugwash off the ladder appreciating that Pugwash will drown in the water below. Jim and the crew escape in the lifeboats and Pugwash drowns.

(Oxford Board, June 1996)

3. Evaluate the effectiveness of duress (including duress of circumstances) as a defence.  
(Oxford Board, June 1995)
4. To what extent should duress and necessity be defences?  
(Oxford Board, June 1992)
5. To what extent should (a) mistake, and (b) necessity be defences to criminal liability?  
(Oxford Board, June 1991)

## MISTAKE

### PROGRESS TEST

1. When will a mistake of fact be a defence?
2. What was the decision of the House of Lords in *DPP v Morgan* (1976)?  
(State the principle of law)
3. What rule applies where a defendant's mistake of fact arises from voluntary intoxication?
4. What is the effect of a successful plea of mistake?

### EXAM QUESTIONS

1. Identify the circumstances in which a mistake will relieve a defendant of criminal liability. How satisfactory is the present law in this area?  
  
(OCR, June 1999)
2. To what extent should (a) mistake, and (b) necessity be defences to criminal liability?  
  
(Oxford, June 1991)

## INTOXICATION

### **PROGRESS TEST**

1. What is a crime of specific intent?
2. What is a crime of basic intent?
3. What is the effect of intoxication? (See *DPP v Majewski*)
4. What rule applies if a drug has a soporific effect?
5. What is "Dutch Courage" and what rule applies to it?
6. What rule applies to involuntary intoxication?
7. What proposals for reform have been made?

### **TUTORIAL QUESTIONS**

1. Downtrodden was angry with Dictator, his boss, who worked him like a slave but with no recognition of his efforts. Thinking that his career was being hampered by Dictator he decided to kill him. Downtrodden drank a bottle of whisky to calm his nerves and then shot dead Dictator.  
  
Discuss Downtrodden's criminal liability.
2. Raver held a party during which he laced Topsy's lemonade with a drug. Topsy began to feel strange and so decided to go outside to get some fresh air. Whilst outside Topsy damaged Roy's car.  
  
Discuss Topsy's criminal liability.

### **EXAMINATION QUESTIONS**

1. Critically evaluate the principles governing the law on intoxication.  
  
(Oxford Board, June 1998)
2. 'The law on intoxication has developed in accordance with public policy rather than being based on principle.' Discuss  
  
(Oxford Board, June 1997)
3. "The principles which govern the law relating to intoxication cannot be supported by logic but nevertheless conform with common sense."  
  
With reference to the above statement, critically evaluate the principles of law relating to intoxication.  
  
(Oxford Board, June 1994)
4. Critically evaluate the principles which govern the law relating to the defence of intoxication.  
  
(Oxford Board, June 1992)

## PRELIMINARY CRIMES

### PROGRESS TEST

1. What are inchoate offences?
2. Define incitement.
3. What *mens rea* is required on a charge of incitement?
4. Is impossibility a bar to a charge of incitement?
5. Define conspiracy.
6. What is "an agreement"?
7. Who may not be charged as a party to a conspiracy?
8. What is the *mens rea* required in a charge of conspiracy?
9. What is the law regarding conspiracy to do an impossible act?
10. What meaning is given to the term "conspiracy to defraud"?
11. What is the present state of the law regarding conspiracy to corrupt public morals or outrage public decency?
12. Define an attempt.
13. What *actus reus* is required for an attempt?
14. What *mens rea* is required for an attempt?
15. What is the present law regarding impossibility in attempt?
16. What proposals for reform have been made?

## **EXAM QUESTIONS**

1. "All inchoate offences should be abolished on the theory that society is not harmed until the crime is completed."

Critically evaluate the strengths and weaknesses of the above proposition using examples drawn from any of the inchoate offences of incitement, conspiracy and attempt.

(OCR, June 2000)

2. In order to secure a conviction for an attempted crime it must be proved that the accused has done an act which is 'more than merely preparatory' to the intended offence.

How satisfactory has this definition proved to be?

(Oxford Board, June 1998)

3. Is it either desirable or justifiable to convict a person who attempts to commit a crime which is impossible?

(Oxford Board, June 1996)

4. Consider whether or not the Criminal Attempts Act 1981 has struck the balance between protecting individual liberties and preventing the commission of crime.

(Oxford Board, June 1995)

5. (a) In what circumstances may a person be convicted of attempting a crime which it is impossible to commit?

(b) Is criminal liability for attempting the impossible either desirable or justifiable?

(Oxford Board, June 1994)

6. (a) How far towards the complete offence must a person go before the law will say he has attempted to commit that offence?

(b) Is the present law in this area satisfactory?

(Oxford Board, June 1993)

7. "The criminal law does not punish people for their guilty thoughts alone but only for overt conduct accompanied by those guilty thoughts."

Assess the validity of this statement with reference to the offence of attempt.

(Oxford Board, June 1992)

## HOMICIDE PRELIMINARY ISSUES & MURDER

### PROGRESS TEST

1. What is the definition of homicide?
2. What has happened to the "Death within a year and a day" rule?
3. What is the doctrine of causation?
4. What are the elements of the doctrine of causation?
5. What rules apply when intervening acts or events occur?
6. What rule applies where a victim is neglectful of his injuries?
7. What rules apply when death is caused by medical treatment of an injury?  
(See *Jordan* (1956) and *Smith* (1959))
8. When will negligent medical treatment break the chain of causation?  
(See *Cheshire* (1991))
9. What test is applied if a victim dies escaping from the defendant?  
(See *DPP v Daley and McGhie* (1980))
10. What is the definition of murder?
11. What is the *mens rea* for murder?
12. How would a jury be directed about intent in a murder case where the defendant did a dangerous act resulting in death? (See *R v Nedrick* (1986) and *R v Woollin* (22 July 1998))
13. What would be your advice to someone who intended only to cause g.b.h. but killed his victim?

### TUTORIAL QUESTION

Diana visits her ex-boyfriend Charles and gives him an orange into which she has put enough chemicals to cause serious injury to an adult. Charles is twenty years old. He eats only a little and the rest is eaten by William, aged five years, who dies. Charles happens to have a particular and unusual susceptibility to the chemicals used by Diana, and he dies in hospital. He would not have died had the correct antidote been administered, but the doctors tending him gave him the wrong substance by mistake.

Discuss the criminal liability of Diana for these deaths.

## **EXAMINATION QUESTIONS**

1. Rupert, a famous businessman, who is very heavily in debt, is being threatened with insolvency proceedings by his creditors. Without telling his family, he insures his own life to the maximum. He then places a bomb in his briefcase, which is not detected at airport security, and boards a passenger plane at Heathrow bound for New York. The bomb is set to detonate over the Atlantic, two hours into the flight. The plane develops engine trouble shortly after take-off and is forced to return to Heathrow one hour after take-off.

The passengers disembark and whilst they are awaiting the arrival of the maintenance crew, Patrick, a cleaner, boards the aeroplane. Rupert has left his briefcase on board. The bomb explodes and Patrick is killed.

Rupert has now been charged with murder. Discuss.

(OCR, June 2000)

2. Dimitri, the owner of The Eggson Face, an oil tanker, is facing financial ruin. He plants a bomb on the ship. The bomb is timed to explode in mid-Atlantic so that he can claim the insurance money when the ship is destroyed. He realises that when the bomb explodes, the ship will sink and cause loss of life.

Consider the criminal liability of Dimitri in the following circumstances:

- (a) The bomb explodes killing Fred and Ted, two crew members.

Consider the criminal liability of Jim in the following circumstances:

- (b) Following the explosion the ship begins to sink. Jim is helping some injured crew members up a ladder from their sleeping quarters to the lifeboats. Captain Pugwash, who cannot swim, clings to the ladder in a state of terror blocking the way. He refuses to move. Jim knows that Pugwash cannot swim, but also realises that if Pugwash does not move they will all die. Jim screams at Pugwash to move, but he does not respond. Jim pulls Pugwash off the ladder appreciating that Pugwash will drown in the water below. Jim and the crew escape in the lifeboats and Pugwash drowns.

(Oxford Board, June 1996)

3. A, who is on bad terms with his neighbour B, hurls a petrol bomb through B's living room window intending to destroy the house, but also being aware that the occupants of the house are highly likely to be severely injured. Mrs B and her baby are badly cut by flying glass but manage to escape from the ensuing fire.

Both Mrs B and the baby are taken to hospital where doctors recommend blood transfusions. Mrs B refuses a transfusion because she is afraid of contracting the AIDS virus. She lapses into a coma and dies shortly afterwards.

The baby is to receive a blood transfusion but C, a hospital technician, mistakenly identifies the baby's blood group. As a result, the baby receives incompatible blood and dies.

Consider the liability of A for the deaths of Mrs B and the baby.

(Oxford Board, June 1994)

4. Bill forces his way into a luxury penthouse occupied by Lord and Lady Jones and their daughter Eve. By threatening to kill Eve, and in order to discover where Lady Jones has hidden her jewels, Bill compels Lady Jones to hold a six chambered revolver to her own head. Bill has loaded only one bullet into the revolver. He compels her to pull the trigger until on the fifth occasion the gun fires and she is killed. On seeing this, Lord Jones has a heart attack and dies.

Frustrated because he cannot find the jewels, Bill rapes Eve before leaving. Some weeks later Eve, fearing she may have contracted AIDS as a result of the rape, commits suicide.

Discuss Bill's criminal liability for the deaths of Lord and Lady Jones and Eve.

(Oxford Board, June 1992)

## VOLUNTARY MANSLAUGHTER

### PROGRESS TEST

1. What is voluntary manslaughter?

#### ***Diminished Responsibility***

2. What is the effect of s2 of the Homicide Act 1957?
3. What is the meaning of "abnormality of mind"?
4. What are the possible origins of an abnormality of mind?
5. Is it sufficient just to show that the accused was suffering from an abnormality of mind?
6. How will a jury decide if the abnormality "substantially impairs" the accused's responsibility for his acts?
7. What rules apply when the jury has to deal with both diminished responsibility and intoxication?
8. On whom is the burden of proof?

#### ***Provocation***

9. What is the definition of provocation?
10. What is the effect of such a plea if successful?
11. What can amount to provocation?
12. What subjective condition has to be satisfied to show provocation?
13. What is the importance of the "cooling off" period between the provocation and the killing?
14. Note the effect of a series of incidents over time which drive a person to murder (see *R v Humphreys* (1995)).
15. What objective conditions have to be satisfied to show provocation?
16. Who decides if the conditions are satisfied?
17. How did Lord Diplock define the reasonable man in *DPP v Camplin*?
18. What characteristics must a jury take into account when considering provocation?
19. What characteristics must a jury ignore when considering provocation?
20. Can characteristics inconsistent with the concept of a reasonable man be taken into account? (See *R v Morhall*)
21. What rule applies where the provocation is self-induced?
22. What points were made by the House of Lords in *R v Morgan Smith* (27 July 2000)?

### ***Suicide Pact***

23. What is the effect of s4 of the Homicide Act 1957?
24. How is a "suicide pact" defined?
25. What type of intention has to be shown?

### ***Infanticide***

26. What is the effect of s1 of the Infanticide Act 1938?

### **TUTORIAL QUESTIONS**

1. Bruno was hit on the head by Tyson in a boxing match. Bruno appeared well, but in fact, developed a blood clot in the brain. Bruno became subject to depression, tiredness and outbursts of uncontrollable violence. He hit his wife over the head with a spade, killing her. Bruno was very depressed and drank two large whiskies. When he came round he found that he had strangled his sister, Jemimah.

Discuss the criminal liability of Bruno.

2. Robert is an exceptionally ugly man. He was implicated in the murder of a young woman. Next morning, after undergoing many hours of hostile police questioning, Robert cannot take the usual jeering of the small children in his neighbourhood with his usual equanimity, and he finds the "Here comes the Yorkshire Ripper" of Andrew, aged eight, particularly galling. Accordingly he picks Andrew up and throws him with considerable force into a brick wall, causing the boy's death. The incident is witnessed by PC Plod, who made the arrest.

Advise Robert as to his liability.

3. John tells Peter that he is "Tired of life at Park Lane College" and wants to die. He persuades Peter to shoot him, which Peter does, killing him. Peter agreed with John that he, Peter, should kill himself also. What would Peter's liability be if:

- (a) Peter then tried to kill himself but failed?
- (b) Peter knew that there was only one bullet in his gun?

4. Mrs Hurry, seven months pregnant, went into labour prematurely, whilst at home. When she looked at the child it became obvious that the child was grossly deformed. She therefore killed it.

Discuss the criminal liability of Mrs Hurry.

## **EXAMINATION QUESTIONS**

1. Peter and Sandra have been married for several years and have two young children. In the past few years they have had frequent quarrels during the course of which Peter has often hit Sandra. She has become very depressed and has been placed on medication by her doctor after telling the doctor how she feels 'trapped' in the relationship. One evening Peter returns home from the pub rather drunk. They begin an argument and Peter tells Sandra that she has always been a hopeless wife and an inadequate mother. Sandra begins to cry. Peter slaps her face and tells her to pull herself together. Enraged, Sandra grabs a marble statuette from the mantelpiece next to her and smashes it over Peter's head, killing him instantly.

Advise Sandra who is charged with the murder of Peter.

Would it make any difference to your advice if Sandra had waited until Peter had fallen asleep in his chair and then killed him with the statuette?

(OCR, June 2000)

2. Compare and contrast the defences of diminished responsibility and insanity.

(OCR, June 1999)

3. Consider whether or not the defence of provocation is in need of reform.

(Oxford Board, June 1997)

4. In an 'A' level law lecture, Mr Crass asks a question of Dermot, an Irish student with a broken leg. Dermot, who has been awake all night owing to the pain from his leg and has not been able to prepare for the class, replies 'I don't know the answer.' Mr Crass shouts at him, 'You thick Paddy. The sooner we stop admitting Irish morons into this class the better.' Dermot had previously been abused in classes by Crass in similar fashion. At this latest insult Dermot, who is well known for his quick temper, hurls his crutch at Crass intending to cause him serious injury. Crass is knocked over by the impact of the crutch and, as he falls, he hits his head on the corner of a desk. He suffers broken ribs and a fractured skull.

At the local hospital, Crass is given an emergency operation to relieve pressure on his brain. During the operation the surgeon collapses from fatigue as he has been on duty for 24 hours. As he collapses, his scalpel slips and aggravates the wound to Crass's skull. Another surgeon completes the operation and Crass is placed on a life support machine, but dies after six months.

Consider Dermot's criminal liability for the death of Crass.

(Oxford Board, June 1996)

5. Pauline, a woman of 28, has been married to Rodney for seven years. Rodney is an alcoholic and often returns home drunk. While in this state, he often punches and slaps Pauline. This behaviour has been taking place regularly for the past three years. Pauline is presently suffering from severe depression which she blames on Rodney's behaviour. One evening, Rodney returns home drunk and slaps Pauline on the face. He also tells her that he does not love her any more and intends to leave home for good. Rodney then falls asleep on the sofa.

Pauline spends a couple of hours contemplating what has happened and, in a sudden burst of fury, beats Rodney on the head with an ashtray intending to kill him.

Pauline immediately regrets her action and calls an ambulance. Rodney is taken to hospital where he is treated for severe head injuries. Dr Doom injects Rodney with penicillin. Unfortunately, Rodney is allergic to penicillin and he dies.

Pauline is charged with the murder of Rodney. She does not dispute that at the time of the incident she intended to kill him.

Consider how Pauline might defend herself against a charge of murder.

(Oxford Board, June 1995)

6. K, who is attending a lecture given by L, a well-known hypnotist, agrees to be hypnotised. L tells K that he intends to induce a state of aggression in him by means of a keyword 'bananas'. K agrees and is duly hypnotised. When L mentions the keyword 'bananas', K reacts by smashing the microphone on L's head causing bruising.

N, a member of the audience, attacks and kills P, who is sitting beside him. P had been calling N a stupid loony. N is in fact severely retarded and lost his self-control when P taunted him. Doctors are prepared to give evidence that N is not insane although he has a mental age of 7.

Advise K who is charged with assault occasioning actual bodily harm to L and criminal damage to the microphone;  
and  
N who is charged with murder.

(Oxford Board, June 1994)

7. Answer both parts:

(a) To what extent are provocation and diminished responsibility defences?

(b) To what extent should they be defences?

(Oxford Board, June 1993)

8. Gill and Jayne are patients in a hospital. Gill is pregnant and has a retarded intellect. She is playing chess with Jayne who taunts her about her inability to master the game and the illegitimacy of her unborn child. In a violent rage, Gill throws a knife at Jayne but it strikes Sue, a nurse, who is killed.

Jayne, who is being treated for epilepsy, wanders into the hospital grounds and is approached by PC John. She believes him to be an alien from outer space and attacks him, causing serious head injuries from which he dies.

Consider the criminal liability of (a) Gill and (b) Jayne, who are both charged with murder.

(Oxford Board, June 1992)

9. John's wife Mary, has a reputation as an immoral woman. Peter, John's workmate, often taunts John about this. So far John has not responded.

On the latest occasion, however, Peter also abuses John himself, calling him a 'gutless old woman'. John punches Peter over the heart, as hard as he can. Peter collapses. John, believing Peter to be dead, throws the body down a well. Peter is in fact killed by the fall.

Discuss the criminal liability, if any, of John.

(Oxford Board, June 1991)

## INVOLUNTARY MANSLAUGHTER

### PROGRESS TEST

#### ***Unlawful act manslaughter***

1. What is the doctrine of unlawful act manslaughter?
2. Explain its four elements.
3. Is emotional harm sufficient? (See Watkins LJ in *R v Dawson*)

#### ***Manslaughter by gross negligence***

4. What amount of negligence is required for this type of manslaughter? (See Lord Hewart CJ in *R v Bateman*)
5. What is the test for manslaughter by criminal negligence? (See *R v Adomako*)

#### ***Manslaughter by recklessness***

6. What is reckless manslaughter?

#### ***Reform***

7. What proposals for reform of the law have been made by the Law Commission?

### TUTORIAL QUESTIONS

1. Sharon had a grudge against Tracy. Sharon poured paraffin through the letter box of Tracy's house. Without giving any warning she ignited the paraffin, and Kevin, a child in the house, died as a result of the fire. Sharon has been charged with murder. However, she contends that she had not wanted to kill anyone but had intended only to frighten Tracy.

Advise Sharon.

2. Pauline lived with her Aunt Nelly who was an elderly woman. Aunt Nelly developed gangrene in her leg and was unable to look after herself. Pauline was the only person who knew of her condition, but failed to provide her aunt with food (despite having been given money by her for this purpose) or medical assistance. After 12 days of suffering Aunt Nelly died.

Discuss the criminal liability of Pauline.

### EXAMINATION QUESTIONS

1. "In struggling to define the boundaries of involuntary manslaughter the courts have encountered considerable difficulties and the resulting muddle is not a credit to English law."

Discuss whether this criticism is justified.

(OCR, June 2000)

2. Dennis was throwing stones at passing cars. One stone hit the windscreen of Angela's car causing her to lose control. The car swerved onto the pavement running over Sarah, a 9 year old child, who had just left home on her way to school. Mary, Sarah's mother, who had a

weak heart, witnessed the accident, suffered a heart attack and died. Sarah was badly injured and was rushed to hospital for treatment.

After two weeks in an intensive care unit Sarah was transferred to a normal recovery ward when her intravenous drip tube became dislodged from her arm when a hospital porter negligently rushed past her. This problem was not observed until the next morning when it was discovered that Sarah had lapsed into a coma as a result of the drip having been dislodged. She did not regain consciousness and, three days later, Sarah died.

Consider Dennis's liability for the deaths of Sarah and Mary.

(OCR, June 1999)

3. Olivia is a dedicated member of an animal rights society. A circus was visiting the large seaside town where Olivia lives. She believed that some of the animals were being mistreated by being kept in very small cages. One summer night she entered the circus compound and released the lions. The alarm was quickly raised and all but one were immediately re-captured. The one lion still at large savaged Albert, who was making his way home from a night club in the early hours of the morning. Albert was rushed to the local hospital suffering from a severe loss of blood. He was immediately diagnosed as being in a critical condition and given a blood transfusion. The doctor responsible used the wrong blood type and, as a result, Albert died.

Advise Olivia as to her criminal liability for Albert's death.

(Oxford Board, June 1998)

4. Horace has just had an argument with his wife and storms out of the house. In a fit of temper, he kicks the garden wall of a neighbouring house owned by Jim. The kick is so powerful that the wall collapses. One of the bricks from the wall strikes Horace on the head leaving him dizzy and confused. Jim comes out from his house to investigate the noise. Horace, in his confused state, picks up a garden spade and strikes Jim once on the ankle intending only to disable him temporarily.

Jim is taken to hospital and treated by Dr King for minor bruises. Dr King neglects to ask Jim whether or not he is allergic to any drugs. In fact, Jim is allergic to penicillin. When Dr King gives Jim a routine penicillin injection, Jim's reaction is so extreme that, despite Dr King's best efforts to revive him, Jim dies.

Consider the criminal liability of Horace.

(Oxford Board, June 1997)

5. 'Involuntary manslaughter is an offence of ill-defined boundaries covering the middle ground between murder and accidental death.'  
(M.J. Allen, *Textbook on Criminal Law*)

Assess the validity of the above statement by analyzing the constituent elements of constructive manslaughter and gross negligence manslaughter only.

(Oxford Board, June 1995)

## NON-FATAL OFFENCES AGAINST THE PERSON

### PROGRESS TEST

#### **Common law Assault & Battery**

1. What is an assault?
2. What is a battery?
3. Can words alone amount to an assault?
4. What is the ratio of *Tuberville v Savage* (1669)?
5. What *mens rea* is required for an assault or battery?

#### **Section 47 O.A.P.A. 1861**

6. What is the definition of the offence under s47?
7. What is the *actus reus*, and what *mens rea* is required?
8. What is 'actual bodily harm' and does it include a nervous illness?
9. What is the meaning attributed to 'occasioning'?

#### **Section 20 O.A.P.A. 1861**

10. What offences are contained in s20?
11. What are 'wounding' and 'grievous bodily harm'?
12. What meaning is attributed to the word 'inflict'?
13. Must the injury be directly inflicted?
14. What *mens rea* is required under s20?
15. How much harm must the accused foresee? (see *R v Mowatt* [1967])
16. Is an intention to frighten sufficient *mens rea* for s20?

#### **Section 18 O.A.P.A. 1861**

17. What offences are contained in s18?
18. What type of intent must be shown to satisfy s18?

#### **Reform**

19. What proposals for reform of the OAPA 1861 have been made?

### **TUTORIAL QUESTIONS**

1. Alfred hires Bill and Colin to help him in a dispute with Daniel, a business rival. Alfred tells Bill and Colin, "I want him scared off. I don't care how you do it". Bill and Colin lay in wait one evening near Daniel's shop. When Daniel approached, Bill leapt out and stabbed Daniel, rupturing Daniel's kidney. When caught, Colin told the police, "I didn't know Bill had a weapon. I thought we were just going to beat him a little round the head".

Discuss the criminal liability of the parties.

2. Starsky was engaged in rifle practice on a firing range. Starsky knew that Hutch was 400 yards away in a trench below the target keeping score. Starsky discharged six rounds at the target and Hutch emerged from the protection of the trench. Starsky decided to frighten him and fired a bullet over Hutch's head. The round hit a concrete post and ricocheted and hit Hutch who was seriously injured.

Advise Starsky of his criminal liability.

What difference would it make to your answer if Hutch had died?

### **EXAMINATION QUESTIONS**

See p35.

## SELF-DEFENCE

### PROGRESS TEST

1. When can a person act in self-defence?
2. What is the effect of s3 of the Criminal Law Act 1967?
3. What is the effect of a successful plea of self-defence?
4. How will the reasonableness or otherwise of an action be decided?
5. What rule applies if the defendant makes a mistake about the amount of force necessary?
6. Is there a "duty to retreat"?
7. Is it absolutely necessary that the defendant be attacked first?
8. How much force can be used to defend property?
9. What rule applies if a person mistakenly believes himself to be threatened or mistakenly believes that an offence is being committed by another person?
10. What rule applies where a drunken person makes a mistake as to self-defence?

### TUTORIAL QUESTION

Andy was of a nervous disposition. He saw two youths walking towards him down a dark street. One of the youths, Bill, was carrying and swinging a bicycle chain. Andy was apprehensive that they were going to attack him. Andy crossed the road. The youths followed. Andy said "Not one step further or I'll have to defend myself". The youths believed that they were being threatened. One of them ran away but Bill was unable to run because he had a heart illness. Bill began to feel unwell, stumbled forward and fell on Andy, who believing he was being attacked, kicked and punched Bill, inducing a severe heart attack. The youths had not intended to attack Andy but had been going to retrieve Bill's broken bicycle.

Discuss Andy's criminal liability.

### EXAMINATION QUESTIONS

See p35.

CONSENT
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**PROGRESS TEST**

This will be issued later in the academic year.

**EXAMINATION QUESTIONS**

See p35.

## NON-FATAL OFFENCES AGAINST THE PERSON

### EXAMINATION QUESTIONS

1. Explain why the courts have sometimes accepted that consent is a good defence for someone accused of an offence against the person whilst on other occasions the defence is said to be unavailable.

Consider whether the current law is satisfactory in this context.

(OCR, June 2000)

2. Lucy plays for the Barchester Belles hockey team. She had been looking forward to a crucial league game against their main rivals and, in order to improve her performance, she took an illegal drug two hours before the start of the match. This caused a reaction with other medication she had been taking and made her dizzy and confused. The referee, Wilf, entered the changing room and asked to inspect the studs in her boots. In her confused state, Lucy thought he was attacking her and she lashed out at him with her hockey stick. Instead of hitting Wilf, she struck a fellow team member, Gemma, in the face, causing her mouth to bleed and breaking her glasses.

Analyse the criminal liability, if any, of Lucy.

(OCR, June 1999)

3. To what extent is consent an effective defence to a charge of assault?

(Oxford Board, June 1997)

4. Roger, while playing football, receives concussion following an accidental clash of heads with another player. Roger has to leave the game and, whilst walking back to the dressing room in an impaired state of consciousness, strikes Steve, the opposing team's manager, in the face, causing a severe fracture of the jaw. Steve is taken to hospital, while Roger is treated by the club doctor. He tells Roger that the concussion will pass in a day or two but, meanwhile, he should refrain from drinking alcohol of any sort as this will greatly increase the risk of erratic behaviour.

Later that evening, Roger visits his local pub and consumes four pints of beer and two small whiskies. He becomes confused and aggressive and throws his glass at the wall causing it to shatter. When Harry the barman tries to calm him down, Roger punches him in the mouth causing minor bruising.

Consider Roger's criminal liability.

(Oxford Board, June 1996)

5. Kevin plays professional football for Newcastle United. During the course of a cup match against Manchester United, Kevin and an opponent, Lee, both jump up in an effort to head the ball. Lee's arm strikes Kevin in the face causing Kevin to suffer a split lip.

In the final minute of the game, Kevin has possession of the ball and runs skilfully past Lee towards the goal. Lee is outraged and chases after Kevin. Several seconds after Kevin passes the ball to one of his team-mates, Lee jumps into the air and brings his foot down on Kevin's knee causing a severe fracture. The incident was not seen by the referee.

At the end of the match, fans rush on to the pitch celebrating a Norcastle United victory. Lee, acting in the mistaken belief that the fans intend to attack him, strikes one fan, Mike, on the jaw. Mike suffers minor bruising.

Consider Lee's criminal liability for the injuries caused to Kevin and Mike.

(Oxford Board, June 1995)

6. Denis plays soccer for Boychester United, who are playing in the Cup Final. A newspaper offers £10,000 to the scorer of the winning goal.

During the game Denis deliberately drives a free kick into the midriff of an opponent, Barry, hoping to put that player off his game. Barry is winded, and suffers discomfort for the next twenty-four hours. Later, with the scores level, Denis fools the referee into believing he has been fouled in the penalty area. The referee awards a penalty, from which Denis scores the winning goal. Later he collects the prize money.

Discuss the criminal liability, if any, of Denis.  
Would your answer differ if Barry had suffered serious injury?

(Oxford Board, June 1991)

## THEFT

### PROGRESS TEST

#### **Actus reus**

1. What is the *actus reus* of theft?
2. How is appropriation defined?
3. Consider what are the rights of an owner.
4. Can a *bona fide* purchaser for value ever steal the property he thought he was buying?
5. Can there be an appropriation if the accused is doing something he is authorised to do? (See *R v Gomez*)
6. How is property defined?
7. What are 'choses in action'?
8. Give examples of intangible property.
9. Consider, referring to case law, what is not property for the purposes of s4.
10. Can land be stolen?
11. What special rules relate to wild flowers?
12. What special rules relate to wild animals?
13. What is the definition of 'belonging to another'?
14. Can an owner of property steal that property from someone in possession?
15. When can 'ownerless property' be stolen?
16. Where property is received subject to an obligation to deal with it in a particular way, does the original owner retain an interest in the property?
17. What kind of obligation is necessary for s5(3) to apply?
18. What special rule applies where a person steals property by mistake?

#### **Mens rea**

19. What is the *mens rea* of theft?
20. When, as a matter of law, is a person not dishonest?
21. Is a subjective or an objective test applied for the purposes of s2(1)?
22. What circumstances are covered by s2(2)?
23. What is the effect of the decision in *R v Ghosh* [1982]?
24. Is there a statutory definition of 'intention to permanently deprive'?
25. Can borrowing ever amount to theft?

26. What situations does s6(1) cover?
27. What situations does s6(2) cover?

### **TUTORIAL QUESTION**

Grabbit is a general dealer with low moral standards, who believes anything is fair in transactions with other traders.

On his daily walk from home to his shop one day he picks some mushrooms and finds a lost tennis ball, both of which he displays for sale in his shop.

His first customer of the day is a blind lady, who asks if he has any mushrooms. He is able to supply what she wants, and she proffers a bundle of coins taken from her handbag, with the instructions: "Take the right amount for yourself, please". Grabbit takes coins amounting to three times the advertised price, and simultaneously has a quick rummage through her handbag, but finds nothing worth taking there.

Later in the day Grabbit goes to visit Pincher, a second-hand goods dealer. He obtains a contribution of £5 from Pincher for the General Dealers' Christmas Party for Deprived Children Fund. Grabbit then offers to look after Pincher's shop for one hour while Pincher goes out for a drink.

After Pincher has left, a customer comes in and makes Grabbit an offer of £10 for a wardrobe assuming that Grabbit is the proprietor of the shop. Grabbit purports to accept the offer and pockets the £10, promising delivery the next day.

When Pincher returns, Grabbit says nothing about the customer and leaves. He goes to the 'bookies' and bets the £5 charity contribution on a horse and the customer's £10 on a football match.

Discuss Grabbit's criminal liability.

### **EXAM QUESTIONS**

See p45

## ROBBERY

### PROGRESS TEST

1. What is the *actus reus* of robbery?
2. What is the *mens rea* of robbery?
3. If there is no theft can there still be a robbery?
4. Will D be guilty of an offence if he has used force on another but has not appropriated any property?
5. What is "force"?
6. How must the force be used?
7. At what time must the force be used?
8. What is the maximum penalty for the offences in s8?

### EXAM QUESTIONS

See p45

## BURGLARY

### PROGRESS TEST

1. What offence is contained in s9(1)(a)?
2. What is the *mens rea* of s9(1)(a)?
3. What offence is contained in s9(1)(b)?
4. What is the *mens rea* of s9(1)(b)?
5. When is an "entry" made for the purposes of burglary?
6. What *mens rea* is required in order to be a trespasser?
7. What is a building?
8. What is "part of a building"?
9. What is the significance of a "dwelling" for the purposes of burglary?
10. Is a conditional intent sufficient *mens rea* for a conviction for burglary?
11. What is the maximum punishment for burglary?
12. What extra elements have to be shown for a conviction under s10?
13. Is it a defence to a charge under s10 that, despite the possession of a weapon at the time of the burglary, there was no intention to use it?

### EXAMINATION QUESTIONS

1. Rembank, an unsuccessful artist, is angry when his work is rejected by an art gallery. Late at night, Rembank enters the art gallery through an unsecure rear window intending to destroy several of the valuable exhibits. Having entered the gallery he forces Stella, one of the cleaners, to have sexual intercourse with him. When Stella screams, Rembank throws a petrol bomb along the passageway and runs away.

Turner, the gallery director, is working late in his office and is severely injured in the ensuing fire.

Stella escapes the fire without injury.

Turner is taken to hospital where he is put on a life support machine but doctors doubt whether he will ever regain consciousness. They agree to wait for three days before deciding whether or not to switch off the machine. Later that day the machine is mistakenly disconnected by a student nurse and Turner dies 40 minutes later.

The prosecution wish to charge Rembank with burglary, rape and the manslaughter of Turner.

Discuss.

(Oxford Board, June 1993)

2. Bill and Tim go to their local hypermarket. On an earlier visit, the hypermarket manager told Tim he was not to return again as he suspected him of being concerned in a spate of thefts which his store had recently suffered.

As they are about to enter the hypermarket, Bill and Tim agree that they will unplug all the freezers in the store, thus spoiling the frozen foods which they contain. They each enter the store, Bill heading for the freezers in the meat department and Tim heading for the freezers in the dairy produce department.

Bill unplugs several freezers and spoils £1,000 worth of meat. On his way out, he enters a room marked "STAFF ONLY" and takes £25 from an unattended handbag. As he is leaving the room, a store detective challenges him, whereupon Bill strikes him on the nose and makes good his escape.

As Tim is about to unplug a freezer full of cheeses, he is challenged by Mary, a shop assistant. Knowing that Mary is having a secret affair with the manager, Tim threatens to reveal this fact to Mary's husband if she stops him. He then unplugs the freezer, spoiling its contents, Mary being too frightened to intervene.

Consider the criminal liability of (a) Bill and (b) Tim ignoring any possible offences of conspiracy and secondary participation.

(Oxford Board, June 1992)

## OBTAINING PROPERTY BY DECEPTION

### PROGRESS TEST

1. What is the *actus reus* of the offence contained in s15?
2. What is the *mens rea*?
3. What is a deception?
4. Can an omission amount to a deception?
5. When will a deception be deliberate or reckless?
6. What effect must the deception have (regarding causation)?
7. When does a person obtain property?
8. What is property belonging to another?
9. How is the question of dishonesty to be decided when a defendant claims that he was not acting dishonestly?

## OBTAINING A MONEY TRANSFER BY DECEPTION

See the changes made by the Theft (Amendment) Act 1996.

## OBTAINING A PECUNIARY ADVANTAGE BY DECEPTION

### PROGRESS TEST

1. What is the *actus reus* of the offence contained in s16?
2. What is the *mens rea*?
3. What is a pecuniary advantage?

## DISHONESTLY RETAINING A WRONGFUL CREDIT

See the additions inserted by the Theft (Amendment) Act 1996.

### EXAM QUESTIONS

See p45

**N.B. Deception offences will not be examined as of June 2000.**

## THE THEFT ACT 1978

### PROGRESS TEST

1. What offence is contained in s1?
2. What causal link is required?
- 3a. How is the term “services” defined? (see s1(2))
- 3b. What addition was made by the Theft (Amendment) Act 1996? (see s1(3))
4. What is the *mens rea* of the offence in s1?
5. What is the *actus reus* of the offence in s2(1)(a)?
6. What is the *actus reus* of the offence in s2(1)(b)?
7. What is the *actus reus* of the offence in s2(1)(c)?
8. When will s2(1) not apply? (see s2(2))
9. What is the *mens rea* required for all three offences under s2?  
(Note the extra element of *mens rea* for s2(1)(b))
10. What offence is contained in s3?
11. When will s3(1) not apply? (see s3(3))
12. What is meant by “makes off”?
13. What constitutes “on the spot”?
14. What is the *mens rea* of the offence in s3?
15. What is the maximum punishment for the above offences?

### EXAMINATION QUESTIONS

See p45.

## THE CRIMINAL DAMAGE ACT 1971

### PROGRESS TEST

1. What offence is contained in s1(1)?
2. What is the meaning of “destroy or damage”?
3. What is the meaning of “property” in s10(1)?
4. What is the meaning of “belonging to another” in s10(2)?
5. Explain the *mens rea* required for the s1(1) offence.
6. What defence is contained in s5(2)(a)?
7. What defence is contained in s5(2)(b)?
8. What offence is contained in s1(2)?
9. Must it be shown for the s1(2) offence that life was in fact endangered?
10. What causal connection must be established for the s1(2) offence?
11. What is the *mens rea* required for the s1(2) offence?
12. What is arson?
13. What offences are contained in s2?
14. What offences are contained in s3?
15. What is the maximum punishment for the offences in the CDA 1971?

### TUTORIAL QUESTION

Discuss D's possible liability for criminal damage arising in the following circumstances:

- a) D lets down the tyres of A's bicycle;
- b) D destroys his own painting with a view to claiming against his insurers for its loss;
- c) D disconnects the brakes on his own car, knowing that his wife will drive it, and hoping that she will be killed. His wife discovers that the brakes have been disconnected before she drives the car; and
- d) in order to discourage trespassers on his land, D sets traps which cause paint to be sprayed on anyone who activates the trap. A, who is trespassing on the land, sets off a trap and paint is sprayed on his clothing.

### EXAMINATION QUESTIONS

See p45.

## EXAM QUESTIONS ON PROPERTY OFFENCES

1. Hugh and Keith, who are both aged 18, share a squat. They frequently steal goods which they then sell. Hugh knows that his father, Colin, has put a mountain bike in the shed at the top of Colin's garden saying that he doesn't use it anymore. One night, Hugh sneaks round to his father's house and takes the bike with a view to selling it.

Keith drinks half a bottle of whisky and, while Hugh is out, searches through Hugh's jacket intending to take any money he might find. He doesn't find any so he drinks the rest of the bottle of whisky and walks down to the local supermarket. There he places several items inside his coat unaware that Aziza, a store detective, is watching him. As soon as he passes the cash till without paying for any of the items Aziza stops him. Keith pushes Aziza aside causing her to fall and bruise her arm. Keith then runs out of the store.

Advise Hugh and Keith of their criminal liability.

(OCR, June 2000)

2. Janice checked in at the Littleton Golf and Country Club Motel. She produced a forged Country Club Gold Card. Genuine entitlement to such a card gave the owner a 20% discount on products and services sold and provided by participating clubs, including Littleton. She used the card to hire a room for the night and received a complimentary meal voucher given to all Gold card holders who stayed overnight at the Club. Before going into the restaurant, she decided to have a drink in the bar. She discovered that there was no one in the bar but she noticed that the cash till had been left open. She went behind the counter intending to take any cash she might find but she discovered that the till was empty. She then went into the restaurant and used the voucher to order a meal. The following morning she checked out of the motel having paid the discounted price for the room.

Discuss Janice's liability.

(OCR, June 1999)

3. Fingers was a professional thief. He went into a branch of the National Building Bank and waited for a customer to make a large cash withdrawal. Brenda came into the bank and drew out £400. Fingers watched her put the money into her purse which she then placed into her bag. While she was distracted by someone dropping some coins on the floor, Fingers took the purse from her bag. Brenda realised what was happening and shouted out. Fingers dropped the purse and went to run out of the bank. Kevin, a customer, tried to block his way but Fingers pushed him aside causing him to fall and bruise his arm.

Once outside, Fingers immediately hailed a taxi and asked the driver to take him to the railway station. When they arrived at the station Fingers asked if he could pay by cheque and the taxi driver reluctantly agreed. Fingers gave the driver a cheque which he had stolen earlier.

Discuss Fingers' criminal Liability.

(Oxford Board, June 1998)

4. What offences, if any, have been committed under the Theft Act 1968 as a result of the following occurrences in Albert's department store?
- (a) Dave, who works in the fruit department, picks blackberries growing wild in a nearby forest. He sells them in the store and gives the proceeds to charity. [10 marks]
- (b) Eric, who works in the glass and china department, borrows a valuable set of six plates for a dinner party he is holding at home. In an effort to impress his dinner guests, Eric juggles with two of the plates but drops and smashes them. Eric returns the remaining four plates the next day. [10 marks]
- (c) Flora, a cashier, in contravention of her employer's strict instructions, takes a £10 note from the till. She fully intends to replace the money from her pay packet the following day. During her lunchbreak, she uses the £10 note to bet on a horse which wins at odds of 3 to 1. She puts £10 from the winnings back into the till before her employer discovers what she has done. [10 marks]
- (d) Gilbert, a former employee of the store, was dismissed after striking a fellow worker. Gilbert was informed by letter that he was no longer permitted to enter the store for any purpose. At home, Gilbert prepares a set of stick-on price labels which are identical to those used in the department store. He enters the store intending to swap the true price labels from goods in the food department with his own labels, thus enabling him to purchase the goods at a much lower price. Gilbert swaps the labels on two tins of salmon and a jar of coffee. He then changes his mind and leaves the store having replaced the items back on the shelf. [20 marks]

(Oxford Board, June 1997)

5. What offences, if any, are committed under sections 1-3 of the Theft Act 1978 or section 15 of the Theft Act 1968 as a result of the following separate occurrences?
- (a) Len fills his car with petrol at a self-service petrol station and only then realises he is unable to pay. He drives away at high speed. [10 marks]
- (b) Mick fills his car with petrol at a self-service petrol station realising at the outset he will be unable to pay. Mick gives the attendant a cheque which he knows will bounce because there are insufficient funds in his account. [15]
- (c) Nora has a 'wash and blow dry' from a hairdresser. When the hairdresser is distracted by a telephone call, Nora quietly slips away without paying. [10]
- (d) Pam borrows £50 from Quentin. It is agreed that Pam will pay Quentin back at the rate of £5 per week for ten weeks. Unknown to Quentin, Pam resolves that she will never repay Quentin and will use whatever excuses are necessary to put him off. Therefore, when Quentin calls to collect the first instalment of £5, Pam falsely tells Quentin that she has been made redundant. Quentin agrees to wait for payment. [15]

(Oxford Board, June 1997)

6. Analyse the meaning of the words 'appropriation' and 'dishonesty' within the Theft Act 1968.

(Oxford Board, June 1996)

7. Eric, a painter and decorator, obtains admittance to Violet's house by offering to decorate her house at a 'special offer price'. After some discussion, he asks to inspect her rooms so that he may give her a firm quotation. She tells him that she only wants the front lounge and the two front bedrooms decorated. Eric then goes round these rooms. While in the front lounge, he takes Violet's purse and puts it in his pocket intending to keep it.

When upstairs, Eric enters Violet's bedroom which is at the rear of the house to see if he can find anything worth stealing. He finds her jewellery and puts it in his pocket. Violet becomes suspicious when she hears footsteps at the rear of the house and goes upstairs. She sees Eric in her bedroom and when he tries to escape she blocks his exit. He throws her on to the bed and forces her to have sexual intercourse with him. As he runs away he shouts at Violet, 'Ring the police and I'll be back to burn this place down'. Violet replies, 'You don't frighten me,' and immediately telephones the police.

Consider Eric's criminal liability.

(Oxford Board, June 1996)

8. Norbert decides to enjoy a weekend break at the Royal Hotel, Blackpool. What offences, if any, does Norbert commit in the following separate situations?
- (a) In order to board the train at Manchester, Norbert quickly shows the ticket inspector an out-of-date season ticket. [10 marks]
- (b) When leaving the train at Blackpool, he falsely tells the ticket collector that his wallet containing his train ticket was stolen during the journey. The ticket collector accepts this explanation and allows Norbert to leave the station. [10]
- (c) Norbert gets a taxi from Blackpool Station to the hotel. During the course of the journey Norbert realises he has left his hand luggage containing his money on the train. When the taxi stops at traffic lights, Norbert gets out and runs away. [10]
- (d) During his stay at the hotel, Norbert enters the room of another guest, Oliver, intending to steal any money he might find. Frustrated at being unable to find any money, he rips all Oliver's clothes which are hanging in the wardrobe. [20]

(Oxford Board, June 1995)

9. What offences, if any, have been committed as a result of the following occurrences in the Heaton department store?
- (a) D, who works in the electrical department, borrows an electric drill, without telling his supervisor, for the weekend. When he returns the drill its motor has burnt out. [10 marks]
- (b) E, a cleaner of low intelligence, finds a diamond ring in the ladies' cloakroom. She keeps the ring. When this is discovered she says she did not realise it would be possible to find the owner. [10]
- (c) F, the flower department manager, picks daffodils growing wild in nearby woods. He sells them in the store and keeps the proceeds. [10]
- (d) G, a customer in the self-service food department, takes a number of items from a shelf and places them into the wire basket provided by the store. G then takes a tin of salmon from the shelf and places it into his coat pocket. G is detained by a store detective before he

leaves the food department. G admits it was his intention to take the salmon and the other items in the basket from the store without payment. [20]

(Oxford Board, June 1994)

10. T orders a taxi to take him to the railway station. What offences, if any, does T commit in the following separate situations if:

(a) T resolves not to pay before ordering the taxi. The journey is completed and T does not pay; [10 marks]

(b) T falsely tells the driver during the journey that he is unemployed and homeless. The driver feels sorry for him and does not require payment; [15]

(c) at the end of the journey T threatens to assault the driver and takes £50 from the driver's wallet; [10]

(d) at the end of the journey T discovers he has left his money at home. Too embarrassed to explain, he runs away from the taxi intending to trace and pay the driver later. [15]

(Oxford Board, June 1994)

11. 'In many cases proof of dishonesty will also establish ... an appropriation but in some cases it will not. Likewise, a person may appropriate property and yet may not be dishonest.' (Allen and Cooper)

With reference to the above comment, critically evaluate how the courts have interpreted the concepts of appropriation and dishonesty within the Theft Act 1968.

(Oxford Board, June 1993)

12. John, a 17-year old student, takes his father's cheque-book, Visa card, driving licence and football club season ticket from his desk drawer. Using the driving licence, John hires a car from 'Self Drive Cars Ltd'. He pays by means of a cheque drawn on his father's account. He spends the afternoon at a football match using the season ticket to gain entry.

Arthur, a violent criminal, discovers what John has done and threatens to tell the police and beat him up, unless John obtains a cash advance of £100 from the bank's automatic dispensing machine using the Visa card. Frightened, John obtains the £100 and gives the money to Arthur. John is now worried that his father will find out what has happened and returns all the documents to the desk drawer and the car to 'Self Drive Cars Ltd'.

What offences has John committed and what defences might he have?

(Oxford Board, June 1993)

13. Critically assess the effectiveness of the Theft Act 1978.

(Oxford Board, June 1992)

14. Jack and Jill Sprat visit 'Mackerels' restaurant. Jack Sprat has no money and intends to leave after his meal without paying the bill. After they have eaten their meal and whilst Jill is drinking her coffee, Jack says he is stepping out for some fresh air and goes home. Jill realises that Jack is not returning and pays the bill by credit card, even though she is aware that her credit limit is already exceeded.

Upon leaving the restaurant she places some loose change in a box labelled 'Save the Children Fund'. At the end of the week Prawn, the owner of the restaurant, empties the box and keeps the money.

Consider the criminal liability, if any, of (a) Jack (b) Jill (c) Prawn, for offences under the Theft Acts 1968 and 1978.

(Oxford Board, June 1992)

15. Alan, a spoilt child, is doted upon by his mother, Belle. One day Alan demands that his mother get him a computer, and threatens to leave home unless she does.

Belle, who has no money, goes to Colin's electronics shop, hoping either that Colin will grant her credit, or that she will be able to take a computer without Colin noticing. When Colin's back is turned she takes a box, labelled 'computer', from the shelves. However, its lightness tells her the box is empty, and she replaces it. She is about to take another when Colin sees her acting suspiciously. Belle breaks down and tells Colin the whole story.

Discuss the criminal liability, if any, of Belle.

How, if at all, would your answer be different, had Alan threatened, not to run away, but to kill his father?

(Oxford Board, June 1991)

16. Fred (who is temporarily incapacitated) gives his neighbour, Eric, his car keys and a £10 note, and asks Eric to put £10's worth of petrol in Fred's car. Eric agrees.

While driving to the petrol station, Eric discovers a chocolate bar on the dashboard and eats it. Eric fills the car with petrol but drives away from the filling station without paying, when he sees that the attendant is not watching him. Eric is later driving in excess of the speed limit and without lights when he runs over and kills George, a pedestrian, who is crossing the road. With lights he would have seen George in time to stop.

Eric returns the car to Fred, but keeps the £10.

Discuss the criminal liability, if any, of Eric.

(Oxford Board, June 1991)

# OCR

## **General Certificate of Education Advanced Level**

former Oxford linear syllabus

**LAW**

**9849/3**

PAPER 3 The General Principles of Criminal Law

Thursday      **22 JUNE 2000**      Afternoon      3 hours

Additional materials:  
16-page Answer Book

**TIME**    3 hours

### **INSTRUCTIONS TO CANDIDATES**

Complete the front page of the Answer Book as directed.

Answer **four** questions, including **at least one** from Section A and **at least one** from Section B.

### **INFORMATION FOR CANDIDATES**

The maximum mark for this paper is **200**. (**50** per question)

**All questions should be answered in continuous prose. You are reminded, therefore, that you will be assessed on your ability to organise and present information and arguments logically and coherently, and to communicate clearly and accurately, taking into account grammar, punctuation and spelling.**

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**This question paper consists of 3 printed pages and 1 blank page**

Answer **four** questions, including at **least one** from Section A and **at least one** from Section B

### SECTION A

- 1** "Strict liability offences are contrary to fundamental legal principle. The imposition of criminal liability without reference to the state of mind of an accused person can never be justified."

Consider why and in what circumstances the courts recognise the existence of crimes of strict and absolute liability.

- 2** Explain what is meant by the term 'causation' in criminal law and assess how the courts have interpreted its significance in determining liability.

- 3** "All inchoate offences should be abolished on the theory that society is not harmed until the crime is completed."

Critically evaluate the strengths and weaknesses of the above proposition using examples drawn from any of the inchoate offences of incitement, conspiracy and attempt.

- 4** "In struggling to define the boundaries of involuntary manslaughter the courts have encountered considerable difficulties and the resulting muddle is not a credit to English law.'

Discuss whether this criticism is justified.

- 5** Explain why the courts have sometimes accepted that consent is a good defence for someone accused of an offence against the person whilst on other occasions the defence is said to be unavailable.

Consider whether the current law is satisfactory in this context.

## SECTION B

- 6** Peter and Sandra have been married for several years and have two young children. In the past few years they have had frequent quarrels during the course of which Peter has often hit Sandra. She has become very depressed and has been placed on medication by her doctor after telling the doctor how she feels 'trapped' in the relationship. One evening Peter returns home from the pub rather drunk. They begin an argument and Peter tells Sandra that she has always been a hopeless wife and an inadequate mother. Sandra begins to cry. Peter slaps her face and tells her to pull herself together. Enraged, Sandra grabs a marble statuette from the mantelpiece next to her and smashes it over Peter's head, killing him instantly.

Advise Sandra who is charged with the murder of Peter.

Would it make any difference to your advice if Sandra had waited until Peter had fallen asleep in his chair and then killed him with the statuette?

- 7** Hugh and Keith, who are both aged 18, share a squat. They frequently steal goods which they then sell. Hugh knows that his father, Colin, has put a mountain bike in the shed at the top of Colin's garden saying that he doesn't use it any more. One night, Hugh sneaks round to his father's house and takes the bike with a view to selling it.

Keith drinks half a bottle of whisky and, while Hugh is out, searches through Hugh's jacket intending to take any money he might find. He doesn't find any so he drinks the rest of the bottle of whisky and walks down to the local supermarket. There he places several items inside his coat unaware that Aziza, a store detective, is watching him. As soon as he passes the cash till without paying for any of the items Aziza stops him. Keith pushes Aziza aside causing her to fall and bruise her arm. Keith then runs out of the store.

Advise Hugh and Keith of their criminal liability.

- 8** Rupert, a famous businessman, who is very heavily in debt, is being threatened with insolvency proceedings by his creditors. Without telling his family, he insures his own life to the maximum. He then places a bomb in his briefcase, which is not detected at airport security, and boards a passenger plane at Heathrow bound for New York. The bomb is set to detonate over the Atlantic, two hours into the flight. The plane develops engine trouble shortly after take-off and is forced to return to Heathrow one hour after take-off.

The passengers disembark and whilst they are awaiting the arrival of the maintenance crew, Patrick, a cleaner, boards the aeroplane. Rupert has left his briefcase on board. The bomb explodes and Patrick is killed.

Rupert has now been charged with murder. Discuss.