

'A' LEVEL LAW

**GENERAL PRINCIPLES OF
CRIMINAL LAW**

STUDY GUIDE FOR MODULE 2571
2001-2002

ASIF TUFAL

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ACTUS REUS

What you need to know

General principles of proof of positive acts before liability may be incurred; omissions as actus reus in certain duty situations; principles of causation; '*sine qua non*' (ie, essential condition or element); factors affecting the chain of causation.

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.

Past 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.

(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.

(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.

(June 1997)

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

(June 1994)

MENS REA

What you need to know

General principles of intention; direct intent; oblique intent; foresight of consequences; specific intent; basic intent; recklessness; gross negligence; knowledge; transferred malice.

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)

Past Exam Questions

1. 'The law relating to the mens rea of murder in England and Wales has now become settled through a series of judicial decisions which, taken together, have made it unnecessary for Parliament to legislate on the matter.'

Critically consider the truth of this statement.

(June 2001)

2. Discuss how successful the courts have been in defining the concept of intention.

(June 1999)

3. '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.

(June 1998)

4. Critically consider how the courts have defined 'intention'.

(June 1997)

5. Critically assess the meaning of the term 'reckless' in criminal law.

(June 1996)

6. "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.

(June 1995)

7. 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.

(June 1994)

8. "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.

(June 1993)

9. "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?

(June 1992)

10. Critically assess the current law regarding the mens rea of murder.

(June 1991)

STRICT LIABILITY

What you need to know

Principles of strict/absolute liability; statutory nature; interpretation by courts; policy issues; social utility; no negligence – due diligence defences.

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?

Past 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.

(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.

(June 1998)

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

(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.

(June 1995)

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

(June 1993)

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

(June 1991)

PARTICIPATION

What you need to know

Actus reus and *mens rea* required for accessorial liability; the meaning of aid, abet, counsel and procure.

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?

Past 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'.

(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.

(June 1998)

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

(June 1997)

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

(June 1996)

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

(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.

(June 1993)

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

(June 1992)

PRELIMINARY CRIMES

What you need to know

Incitement – Common law rules in outline only

Conspiracy – Statutory conspiracy in outline only

Attempts – Statutory definition; *mens rea* and *actus reus*; meaning of 'more than merely preparatory'; attempts to do the impossible.

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. Define an attempt.
11. What *actus reus* is required for an attempt?
12. What *mens rea* is required for an attempt?
13. What is the present law regarding impossibility in attempt?
14. What proposals for reform have been made?

Past 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.

(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?

(June 1998)

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

(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.

(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?

(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?

(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.

(June 1992)

HOMICIDE PRELIMINARY ISSUES & MURDER

What you need to know

Murder – The *actus reus* and *mens rea* required.

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?

Past Exam Questions

1. 'The law relating to the mens rea of murder in England and Wales has now become settled through a series of judicial decisions which, taken together, have made it unnecessary for Parliament to legislate on the matter.'

Critically consider the truth of this statement.

(June 2001)

2. 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.

(June 2000)

3. 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.

(June 1996)

4. 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.

(June 1994)

5. 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.

(June 1992)

VOLUNTARY MANSLAUGHTER

What you need to know

Defences of diminished responsibility, provocation and suicide pact.

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?

Past Exam Questions

1. Explain, by reference to relevant cases, how and why the courts have developed the defence of provocation in the Homicide Act 1957.

(June 2001)

2. 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?

(June 2000)

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

(June 1999)

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

(June 1997)

5. 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.

(June 1996)

6. 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.

(June 1995)

7. 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.

(June 1994)

8. Answer both parts:

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

(b) To what extent should they be defences?

(June 1993)

9. 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.

(June 1992)

10. 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.

(June 1991)

INVOLUNTARY MANSLAUGHTER

What you need to know

Constructive (unlawful act) manslaughter; gross negligence manslaughter; corporate killing; recklessness.

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?

Past Exam Questions

1. Harry and Joan are an elderly married couple in their seventies. They are both frail and forgetful. They agree to allow Joan's ailing older brother, Will, to come and stay with them as he is clearly finding it very difficult to look after himself. Will becomes increasingly argumentative and the three of them fall out with one another. As a result, Joan refuses to do any cooking for Will, who spends more and more time in his own bedroom and refuses to communicate with either Harry or Joan. Six months after he has come to live with them, Harry and Joan realise that they have not heard, nor seen, Will for four days. When they go into his room they discover Will collapsed on the floor. They immediately telephone for an ambulance and Will is taken to hospital. Will is found to be suffering from pneumonia. Doctor Foster treats Will with penicillin after failing to consult with Joan, who would have told Dr Foster of Will's allergy to penicillin. As a result Will's condition becomes critical and he is transferred to the intensive care unit. Will dies soon afterwards.

Advise Harry, Joan and Dr Foster as to their liability for Will's death.

(June 2001)

2. "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.

(June 2000)

3. 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.

(June 1999)

4. 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.

(June 1998)

5. 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.

(June 1997)

6. '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.

(June 1995)

Oxford Cambridge and RSA Examinations

Advanced GCE

LAW

CRIMINAL LAW 1

2571

Specimen Paper

Additional materials:
Answer paper

TIME 1 hour 30 minutes

INSTRUCTIONS TO CANDIDATES

Write your name, Centre number and candidate number in the spaces provided on the answer booklet.

Write all your answers on the separate answer paper provided.

If you use more than one sheet of paper, fasten the sheets together.

Answer **two** questions, one from Section A and one from Section B.

INFORMATION FOR CANDIDATES

The number of marks is given in brackets [] at the end of each question or part question.

You will be awarded marks for the quality of written communication where an answer requires a piece of extended writing.

Answer **TWO** questions, **one** from Section A and **one** from Section B.

SECTION A

1. '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.

[50 marks]

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

How satisfactory has this definition proved to be?

[50 marks]

SECTION B

3. Pauline, a woman of 28, has been married to Rodney for seven years. Rodney is an alcoholic and often returns home drunk. Whilst in this state, he often punches and slaps Pauline. This behaviour has been taking place for the past three years. One evening, Rodney returns home drunk and slaps Pauline on the face. 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 intending to kill him.

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 on a charge of murder.

[50 marks]

4. Alice and Briony belong to a group of animal rights activists called Born Free. They are involved in a national campaign against Eurodrug who own a chain of stores that sell pharmaceutical and cosmetic products. The group believes that some of these products have been developed by testing their possible side effects upon animals. One evening Alice and Briony plant a bomb inside a carrier bag which they place inside the doorway of one of Eurodrug's main shops in a large shopping mall. They telephone the police to warn them that the bomb has been timed to explode in two hours' time.

The area is quickly cleared of all members of the public and David, an army bomb disposal expert, is brought in to de-fuse the device. Unfortunately the bomb explodes as he is trying to move it and David is seriously injured. He is rushed to hospital where he refuses to undergo a blood transfusion as it is against his religious beliefs. Doctors are of the opinion that such a transfusion would almost certainly have saved his life.

Alice and Briony have now been charged with David's murder. Discuss their possible liability.

[50 marks]