

## CASES ON ACTUS REUS

### THE ACTUS REUS MUST BE VOLUNTARY

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#### ***R v Quick*** [1973]

The defendant, a diabetic was charged with assaulting his victim. The assault occurred whilst the defendant was in a state of hypoglycaemia (low blood sugar level due to an excess of insulin). The court held that the defendant should have been acquitted on the ground of automatism. His unconscious state had been the result of external factors, ie the taking of insulin.

#### ***Leicester v Pearson*** (1952)

A car driver was prosecuted for failing to give precedence to a pedestrian on a zebra crossing, but was acquitted when it was established that his car had been pushed onto the crossing by another car hitting it from behind.

### “STATE OF AFFAIRS” CASES

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#### ***R v Larsonneur*** (1933)

The defendant was a French national who had entered the UK lawfully, but was given only limited permission to remain in the country. At the end of that period the defendant left England, not to return to France, but to travel to the Irish Free State. The Irish authorities made a deportation order against her, and she was forcibly removed from Ireland and returned to the UK. On arrival in England the defendant was charged under the Aliens Order 1920, with “being found” in the UK whilst not having permission to enter the country. The defendant was convicted, and appealed on the basis that her return to the UK had not been of her own free will, in that she had been forcibly taken to England by the immigration authorities. The Court of Appeal dismissed her appeal on the simple basis that the prosecution had proved the facts necessary for a conviction.

#### ***Winzar*** (1983)

The defendant had been admitted to hospital on a stretcher. Upon examination he was found to be drunk and was told to leave. Later he was found in a corridor of the hospital and the police were called to remove him. The police officers took the defendant outside onto the roadway, then placed him in a police car and drove him to the police station where he was charged with “being found drunk in a public highway”.

The defendant was convicted, and appealed on the ground that he had not been on the public road of his own volition. The Divisional Court upheld the conviction holding that all that was required for liability was that the defendant should be perceived to be drunk whilst on a public highway. There was no need for the court to have any regard as to how he came to be there.

## OMISSIONS

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### ***Greener v DPP* (1996)**

The defendant was the owner of a young, powerful Staffordshire Bull Terrier. He had left the dog chained in an enclosure in his back garden. The dog had strained and bent the clip releasing its chain. It had escaped from the enclosure and entered a nearby garden where it bit the face of a young child. Section 3(3) of the Dangerous Dogs Act 1991 provides that if the owner of a dog allows it to enter a place which is not a public place but where it is not permitted to be and while it is there it injures any person, he is guilty of an offence. It was held by the Divisional Court that an offence under s3(3) could be committed by omission. The word "allows" included taking and omitting to take a positive step. In the present case the defendant had failed to take adequate precautions. Similar precautions had been taken in the past but they were obviously inadequate as the fastening was not good enough and the enclosure not secure.

### ***R v Pittwood* (1902)**

The defendant was employed as a gatekeeper at a railway crossing. One day he went for lunch leaving the gate open so that road traffic could cross the railway line. A hay cart crossing the line was hit by a train. One man was killed, another was seriously injured. Pittwood was convicted of manslaughter based on his failure to carry out his contractual duty to close the gate when a train approached.

### ***R v Gibbins and Proctor* (1918)**

Gibbins and Proctor were living together with Gibbins's daughter, Nelly and other children. Nelly was kept upstairs apart from the others and was starved to death. There was evidence that Proctor hated Nelly and cursed her and hit her. Gibbins gave all his wages to Proctor and it was her duty to provide the food. Both defendants were convicted of murder.

The Court of Appeal held that Gibbins lived in the house, the child was his own (a little girl of seven) and he grossly neglected the child. He must have known what her condition was. Proctor had charge of the child. Proctor chose to live with Gibbins and as she received money for the purpose of supplying food, her duty was to see that the child was properly fed and looked after, and to see that she had medical attention if necessary. Therefore, the convictions were upheld.

### ***R v Stone and Dobinson* [1977]**

The defendants (common law husband and wife) were of low intelligence. One day they were visited by S's sister Fanny and took her in providing her with a bed but over the following weeks she became ill. She did not eat properly, developed bed sores, and eventually died of blood poisoning as a result of infection. The defendants had not obtained any medical assistance for Fanny although they had known that she was unwell. The defendants were convicted of manslaughter.

The Court of Appeal held that the defendants had been under a common law duty to care for Fanny. This duty had arisen from their voluntarily assuming the responsibility for looking after her, knowing that she was relying on them. The defendants' failure to discharge this duty was the cause of the victim's death.

***R v Miller* (1983)**

The defendant had been squatting in a house and fell asleep on a mattress smoking a cigarette. The defendant was awoken by the flames, but instead of putting the fire out, he simply got up and went into another room where he found another mattress, and went back to sleep. As a result, the house was substantially damaged by fire, and the defendant was convicted of criminal damage.

The House of Lords held that once the defendant awoke and realised what had happened, he came under a responsibility to limit the harmful effects of the fire. The defendant's failure to discharge this responsibility provided the basis for the imposition of liability.

## CAUSATION

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***R v White* [1910]**

The defendant put potassium cyanide into a drink for his mother with intent to murder her. She was found dead shortly afterwards with the glass, three-quarters full, beside her. The medical evidence showed that she had died, not of poison, but of heart failure. The defendant was acquitted of murder and convicted of an attempt to murder. Although the consequence which the defendant intended occurred, he did not cause it to occur and there was no *actus reus* of murder.