

BALANCING CONFLICTING INTERESTS

Print the following sections of the notes from the St. Brendan's SFC website and answer the questions below:

- Social jurisprudence
 - Criminal Law
 - Tort
 - Legal Procedure
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(A) Identification of the Different Interests of Parties to Disputes

SOCIAL JURISPRUDENCE

1. How did Jhering explain the relationship between law and competing interests?
2. Explain the three competing interests identified by Roscoe Pound.

(B) Public Interests Against Private Interests; the Subordination of Individual Rights to Community Interests

CRIMINAL LAW

Recklessness

3. What are the conflicting interests with regard to recklessness as a form of *mens rea*?
4. Contrast the cases of *Cunningham/Spratt* and *Caldwell* (1981).

Intoxication

5. What are the conflicting interests with regard to the defence of intoxication?
6. Explain the reasoning behind the decisions in: *Majewski* (1976) and *O'Grady* (1987).

Strict Liability

7. What are the conflicting interests with regard to strict liability?
8. Why was the offence in *Alphacell v Woodward* (1972) interpreted as one of strict liability?

TORT

Negligence

9. What are the conflicting interests in the tort of negligence?
10. Explain the decisions in *Meah v McCreamer (No 1 and No 2)* (1985-6) and/or *Goodwill v British Pregnancy Advisory Service* (1996)

Nuisance

11. How does the tort of nuisance try to strike a balance between competing interests?
12. Explain the decisions in *Christie v Davey* (1893), *Miller v Jackson* (1977) and *Kennaway v Thompson* (1980).

Defamation

13. What are the conflicting interests in the tort of defamation?
14. Explain the conflicting interests in *Derbyshire CC v Times Newspapers* (1993) and the balance in *Loutchansky v Times Newspapers* (2001).

LEGAL PROCEDURE

15. What are the conflicting interests in civil and criminal cases?
16. How are the conflicting interests regarding the right to silence balanced?
17. What are the conflicting interests regarding the right to bail?
18. What are the conflicting interests regarding the burden of proof in criminal cases? Refer to *Woolmington v DPP* (1935).
19. What are the conflicting interests regarding self-incrimination? Explain the decision in *Stott v Brown* (2000).
20. How can the concept of “public interest immunity” cause a conflict between different interests? Explain the decision in *Duncan v Cammell Laird* (1942) and/or *R v Rankine* (1986).