

‘A’ LEVEL LAW

**GENERAL PRINCIPLES OF
CRIMINAL LAW**

STUDY GUIDE FOR MODULE 2572
2001-2002

ASIF TUFAL

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Amendment to specification

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OCR

May 2001

NOTICE TO CENTRES

For the attention of: The Head of Law

LAW (7839) – MINOR AMENDMENTS TO SYNOPTIC REQUIREMENT

**Units: 2572 Criminal Law 2
2575 Law of Contract 2
2578 Law of Torts 2**

There has been a minor amendment to the specification for 7839 Law. The synoptic element in the A2 unit (2572, 2575 or 2578), which tests the candidates' understanding of the connections between different elements of the subject has been removed. This means that the 20% synoptic element required is now fulfilled solely by the Special Study Unit (2573, 2576 or 2579), which is the only unit that is required to be taken at the end of the course.

The removal of this synoptic question will take effect immediately with the January and June 2002 question papers.

Any enquiry about this notice should be referred to the Subject Officer for Law, Miss Stephanie Riley, OCR, Mill Wharf, Mill Street, Birmingham, B6 4BU or telephone 01223 552978.

INSANITY

What you need to know

M'Naghten rules; effects of insanity as a defence.

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?

Past Exam Questions

1. Compare and contrast the defences of diminished responsibility and insanity.
(June 1999)

2. See problem Q3, p8.
(1997)

3. Evaluate the effectiveness of insanity as a defence.
(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.

(June 1995)

5. Has the defence of insanity developed in a satisfactory manner or is the law in need of further reform?

(June 1993)

6. Critically evaluate the McNaghten Rules. Are they an appropriate test for insanity in the modern world?

(June 1991)

AUTOMATISM

What you need to know

Definition of automatism; self-induced automatism; distinctions between insane and non-insane 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?

Past Exam Questions

1. Lord Denning described automatism in *Bratty v A-G for Northern Ireland* (1963) as ‘...an act which is done by the muscles without any control by the mind such as a spasm, a reflex or a convulsion; or an act done by a person who is not conscious of what he is doing, such as an act done whilst suffering from concussion, or whilst sleepwalking.’

Evaluate the accuracy of this statement by reference to the circumstances in which the courts have recognised the defence of automatism.

(June 2001)

2. 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.

(June 1996)

DURESS

What you need to know

Nature and scope of this as a defence; self-induced duress; limits to its availability.

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?

Past Exam Questions

1. The essence of the defence of duress by threats is that a defendant would not have committed a crime but for the threats of another person.

Consider how and why the courts have limited the availability of this defence.

(June 2001)

2. 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.

(June 1998)

3. 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 Steve 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.

(June 1997)

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

(June 1995)

5. Evaluate the effectiveness of duress as a defence.

(June 1994)

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

(Oxford Board, June 1992)

NECESSITY

What you need to know

Scope and nature of this as a defence; duress of circumstances; limits to their availability.

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?

Past 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.

(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.

(June 1996)

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

(June 1995)

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

(June 1992)

5. To what extent should (a) mistake, and (b) necessity be defences to criminal liability?

(June 1991)

MISTAKE

What you need to know

Principle of mistake when allowed as a defence and its relationship with other defences.

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?

Past 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?

(June 1999)
2. To what extent should (a) mistake, and (b) necessity be defences to criminal liability?

(June 1991)

INTOXICATION

What you need to know

Voluntary intoxication and its effect on liability for different offences; involuntary intoxication; specific/basic intent dichotomy; public policy issues.

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 Question

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.

Past Exam Questions

1. Critically evaluate the principles governing the law on intoxication.
(June 1998)

2. 'The law on intoxication has developed in accordance with public policy rather than being based on principle.' Discuss
(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.
(June 1994)

4. Critically evaluate the principles which govern the law relating to the defence of intoxication.
(June 1992)

NON-FATAL OFFENCES AGAINST THE PERSON

What you need to know

Assault and battery; actual bodily harm; wounding; grievous bodily harm; Law Commission proposals and response.

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 Question

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?

Past Exam Questions

See p19.

SELF-DEFENCE

What you need to know

Self-defence/defence of another/prevention of crime; degree of force.

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.

Past Exam Questions

See p19.

CONSENT

What you need to know

Consent and limitations on this defence.

Progress Test

This will be issued later in the academic year.

Past Exam Questions

See p19.

NON-FATAL OFFENCES AGAINST THE PERSON

Past Exam Questions

1. One evening, whilst walking home, Imran sees two men running along the pavement towards him. Imran mistakenly believes that the second man is chasing the first man in order to attack him. In fact, the first man has just escaped from police custody, having been arrested for robbery. He is being lawfully pursued by the second man who is a plain-clothes police officer. As the police officer goes past, Imran trips the officer, who falls heavily to the ground, and then Imran jumps on him. The officer sustains a broken arm and cuts and bruises to his face from the fall and the attack.

Advise Imran as to his criminal liability. (Candidates should not discuss offences of obstructing police officers in the execution of their duty.)

What difference would it make to your answer if, earlier that evening, Imran had been drinking heavily and was intoxicated at the time of the attack?

(June 2001)

2. 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.

(June 2000)

3. 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.

(June 1999)

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

(June 1997)

5. 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.

(June 1996)

6. Kevin plays professional football for Norcastle United. During the course of a cup match against Moanchester 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.

(June 1995)

7. 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?

(June 1991)

THEFT

What you need to know

Actus reus and *mens rea*; issues surrounding meaning of appropriation and dishonesty.

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.

Past Exam Questions

See p27.

OTHER OFFENCES

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?

Past Exam Questions

See p27.

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?

Past Exam 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.

(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.

(June 1992)

MAKING OFF WITHOUT PAYMENT

Progress Test

1. What offence is contained in s3?
2. When will s3(1) not apply? (see s3(3))
3. What is meant by “makes off”?
4. What constitutes “on the spot”?
5. What is the *mens rea* of the offence in s3?
6. What is the maximum punishment for the above offences?

Past Exam Questions

See p27.

CRIMINAL DAMAGE

What you need to know

Simple offence (Criminal Damage Act s1(1)).

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 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.

Past Exam Questions

See p27.

EXAM QUESTIONS ON PROPERTY OFFENCES

1. Discuss whether the law relating to dishonesty and appropriation in theft is now in a satisfactory state.

(June 2001)

2. Nicola and Jimmy are heroin addicts. One day they are so short of money to buy their next fix of heroin that they decide to 'mug' an old lady passing by in the street. Nicola distracts her whilst Jimmy creeps up from behind and snatches her bag, pushing her to the ground as he does so.

When they open the bag, they find some money, which they decide to keep, a bunch of keys and a pension book with the old lady's address on it. They go to her house using the keys to get in. However, once inside, they can find nothing worth stealing. In frustration, they smash the ceramic sink and bath with a hammer that they have found and then run off.

(June 2001)

3. 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.

(June 2000)

4. 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.

(June 1999)

5. 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.

(June 1998)

6. 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]

(June 1997)

7. 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]

(June 1997)

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

(June 1996)

9. 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.

(June 1996)

10. 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]

(June 1995)

11. 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]

(June 1994)

12. 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]

(June 1994)

13. '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.

(June 1993)

14. 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?

(June 1993)

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

(June 1992)

16. 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.

(June 1992)

17. 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?

(June 1991)

18. 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.

(June 1991)

Oxford Cambridge and RSA Examinations

Advanced GCE

LAW

CRIMINAL LAW 2

2572

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. 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.

[50 marks]

2. Evaluate the effectiveness of insanity as a defence.

[50 marks]

SECTION B

3. Daphne, while playing hockey, receives a blow on the head which causes concussion and she has to leave the pitch. In the changing rooms, while still semi-conscious, Daphne rips a jersey belonging to Naomi, a fellow player.

After recovering from the immediate effects of the concussion, Daphne still occasionally suffers from bouts of semi-consciousness due to the blow which she had received. Her doctor warns her that drinking any alcohol will greatly increase the likelihood of any blackout. Two days later, at a party, Daphne drinks one small whisky which causes her to become semi-conscious. She then smashes several crystal glasses on a nearby table. Sanjay tries to restrain her, but Daphne punches him in the face fracturing his jaw.

- (a) Discuss Daphne's criminal liability. Would your answer differ if Daphne was drinking orange juice at the party and Julie spiked the drink with whisky?.

[40]

- (b) Daphne has been detained by the police for questioning and is anxious to know whether or not she is likely to be released on bail. Advise her.

[10]

[Total: 50 marks]

4. Martin, a student, is heavily in debt. Since he has no food left at his flat, he goes to a local supermarket. He takes his flatmate's personal stereo player without asking so that he can listen to some music. He enters the supermarket and goes to the freezer units where the frozen food is kept. He reaches inside and selects a tray of chicken breasts which he places inside his jacket. Just then he notices that another shopper is watching him. Afraid that the person observing him is a store detective Martin sheepishly replaces the item in the freezer and quickly runs out of the store.

Feeling cold and miserable he decides to go to the local cinema to keep warm. He has just enough money to pay for his ticket. On his way out he notices that there is no one around so he reaches behind a glass counter at the kiosk in the foyer and takes six bars of chocolate.

As he is walking home that evening, his luck seems to change when he sees a wallet lying in the gutter. It contains £100 in ten pound notes. Seeing that no one is around Martin decides to keep the money but leaves the wallet. He gives the personal stereo player back to his flatmate but the batteries are now completely flat.

- (a) Consider what offences, if any, Martin has committed.

[40]

- (b) Advise Martin as to which courts may have power to try his case if he is charged with an offence or offences and why the venue may be significant for him.

[10]

[Total: 50 marks]