

General Certificate of Education
January 2006
Advanced Level Examination



LAW
**Unit 5 Criminal Law (Offences against Property)
or Tort or Protection of Human Rights
or Consumer Protection**

LAW5

Thursday 19 January 2006 9.00 am to 10.15 am

For this paper you must have:

- a 12-page answer book

Time allowed: 1 hour 15 minutes

Instructions

- Use blue or black ink or ball-point pen.
- Write the information required on the front of your answer book. The *Examining Body* for this paper is AQA. The *Paper Reference* is LAW5.
- Answer **one** question from two on the theme you have studied for this unit.
- Do all rough work in the answer book. Cross through any work you do not want marked.
- Give reasoned answers. Where appropriate, make reference to authority.

Information

- The maximum mark for this paper is 85.
10 of these marks will be awarded for the Quality of Written Communication.
- The marks for questions are shown in brackets.
- You are reminded of the need for good English and clear presentation in your answers. All questions should be answered in continuous prose. Quality of Written Communication will be assessed in all answers.

Answer **one** question from two on the theme you have studied for this unit.

Give reasoned answers. Where appropriate, make reference to authority.

Read the scenario and answer **all** parts of the question which follows.

Criminal Law (Offences against Property)

1

Total for this question: 75 marks

Vic was walking down the street when someone suddenly said to him, “You have just dropped this”, thrust a piece of paper into his hand, and walked off. Vic put the piece of paper into his pocket without looking at it and did not discover until two hours later that it was actually a ticket for a seat at that evening’s football match between City and United. Feeling a little guilty about using a ticket that he had not paid for, Vic went to the football stadium and used it to gain entry.

Before the match started, Vic drank five pints of beer at the bar under the stand in which he was to sit. As he was about to go to the steps leading up to the seats, he noticed a sign against the pies behind the counter of the bar. The sign appeared to him to say, ‘free pies’. He reached over and took two pies from behind the counter. In fact, the sign explained how free pies could be obtained with other purchases. Shortly afterwards, Will, a steward, was informed of Vic’s actions and tried to prevent him from taking a seat. Vic pushed Will, who fell down the steps and broke his arm.

- (a) Discuss Vic’s criminal liability for a range of offences arising out of his keeping the ticket and using it to gain entry to the match. *(25 marks)*
- (b) Discuss Vic’s criminal liability for a range of **property** offences in connection with the incidents in the football stadium. *(25 marks)*
- (c) Write a critical analysis of any **one property** offence. *(25 marks)*

Gary had a grudge against Henry. He said to Ian, who occasionally committed thefts for Gary and was very frightened of him, "Break Henry's legs or I will break yours!" Henry was friendly with Ian and invited him to help to repair some bicycles in the garage built into Henry's house. Whilst Henry was busy, Ian loosened the wheel nuts on a bicycle that Henry frequently used. When Henry next rode the bicycle, the wheel worked loose and Henry fell off the bicycle, narrowly avoiding a serious accident.

Jim asked Ian if he would find a second-hand car for him, and gave Ian a cheque for £2500. Ian paid the cheque into his bank but, after failing to find a suitable car, withdrew £500 of the money and spent it on a seaside holiday for himself. After staying for two nights in Kerry's guest house, he left early in the morning without settling his bill. As he was walking along the promenade, he put his leg out and tripped up Laura, who was jogging past him. Whilst appearing to help Laura up, Ian took Laura's purse from her pocket. When he looked through the purse later, he found nothing that he wanted and threw it down in the main street.

- (a) Discuss Ian's criminal liability for any **property** offences arising out of his visit to Henry's garage. *(25 marks)*
- (b) Discuss Ian's criminal liability for a range of **property** offences arising out of the incidents involving Jim, Kerry and Laura. *(25 marks)*
- (c) Write a critical analysis of any **one property** offence. *(25 marks)*

Turn over for the next question

Tort**3****Total for this question: 75 marks**

Andrew was a historian engaged as a consultant by a national newspaper, *The Recorder*. He was shown diaries alleged to have been written in the nineteenth century by a famous soldier. The diaries were not previously known to exist. After extensive research, Andrew concluded that the diaries were genuine and *The Recorder* publicised his conclusions in a front page story. After reading the report of Andrew's research and conclusions in *The Recorder*, Beth bought the diaries at an auction for £50 000. Soon afterwards, Beth allowed other historians to examine them, and it was very rapidly discovered that the diaries were definitely not genuine and were, in fact, worthless forgeries. By that time, the forger had disappeared with the money.

Reporters from other newspapers followed Andrew to his weekend cottage to try to interview him. Andrew hastily engaged Charles, a local joiner, to fit shutters to the outside of all windows to protect his privacy. Whilst doing so, Charles fell from a ladder and broke his arm, when a rotten window sill on which he had placed his foot gave way under his weight. David, one of the reporters, climbed a wall at night to get into the grounds of the cottage. When he jumped down, he landed on an old glass frame left under the wall and suffered a very bad cut to his leg.

- (a) Discuss the rights and remedies, if any, available to Beth against Andrew **and** against *The Recorder*. (25 marks)
- (b) Consider whether Charles and David have any rights and remedies against Andrew in connection with the injuries that each suffered at Andrew's cottage. (25 marks)
- (c) Consider whether the current law ensures that claimants have adequate rights to recover compensation for **either** economic loss **or** psychiatric injury. (Choose **one** only.) (25 marks)

Edward's road haulage business was based in an area that had recently undergone a substantial change from light industrial to residential use. Located nearby was 'Woodlands', a newly-opened nursing and retirement home for old people. The owners and residents of Woodlands complained of the persistent noise, fumes and dirt resulting from the operation of the lorries and of oil spillages in Edward's yard that, allegedly, had contaminated drains at Woodlands.

As Edward drove round a roundabout in town, one of the ropes securing the load on his lorry snapped. As a result, the load shifted and the lorry began to roll over. At that moment, Fred was passing Edward's lorry on his motorbike. In his haste to avoid being crushed, Fred accelerated and lost control of his motorbike, which mounted the kerb, narrowly missed Geri and crashed through the large window of the shop where Helen worked. Fred suffered serious facial injuries and his right leg was severed below the knee. Helen was in the shop at the time and tried to comfort Fred until an ambulance arrived. Helen was a close friend of Fred's mother and had known Fred since he was a child. She subsequently experienced persistent psychological problems. Geri suffered recurrent panic attacks and was afraid to go into town.

- (a) Discuss the rights and remedies, if any, available to the owners and residents of Woodlands against Edward. *(25 marks)*
- (b) Discuss the rights and remedies, if any, available to Fred, Geri and Helen against Edward. *(25 marks)*
- (c) Consider whether the current law ensures that claimants have adequate rights to recover compensation for **either** economic loss **or** psychiatric injury. (Choose **one** only.) *(25 marks)*

Turn over for the next question

Protection of Human Rights

5

Total for this question: 75 marks

Chris found a text message on his 14-year-old daughter's mobile telephone. It came from her swimming coach, Dan, and appeared to Chris to suggest an improper relationship between his daughter and Dan. Chris hinted to other parents that they ought to be especially careful about their daughters being coached by Dan, who then began to receive 'hate mail'. At the same time, Chris informed the *Daily View*, a national newspaper prominent in pursuing stories of this kind, that they might wish to investigate Dan.

Investigative reporters from the *Daily View* did not discover any past improper sexual behaviour on Dan's part. However, they learned from Ellen, a former partner of Dan's, that Dan had walked out on his wife and family ten years earlier, leaving them distressed and in debt. He had changed his identity to stop them finding him. No one, not even Dan's new partner, knew of his past, except Ellen. The *Daily View* had paid her £5000 for her story. Dan was horrified when he discovered their intention to publish a series of articles about him.

- (a) Ignoring the Human Rights Act 1998 and the European Convention on Human Rights, discuss Dan's rights and remedies against Chris, Ellen and the *Daily View*, **and** also consider the law in relation to the 'hate mail'. (25 marks)
- (b) Discuss the effect of the Human Rights Act (HRA) 1998 and of the European Convention on Human Rights (ECHR) on the application of the law which you have considered in answering (a) above. (25 marks)
- (c) **EITHER**

Discuss the extent to which English law (including the HRA 1998 and the ECHR) succeeds in establishing an appropriate balance between the protection of freedom of expression and the protection of interests in privacy. (25 marks)

OR

Discuss the extent to which English law (including the HRA 1998 and the ECHR) succeeds in establishing an appropriate balance between the protection of freedom of expression and interests in the preservation of public order. (25 marks)

Residents in the north-west area of the city had recently become disturbed by the spectacle of women gathering in the streets to sell sexual favours. Since then, there had allegedly been an increase in drug taking, theft, and violence and intimidation. Being disappointed by a lack of police response, some of the residents formed 'Streetclean', a group dedicated to making the streets safe again. Frances, the group's secretary, displayed a prominent banner across the front of her house, urging people to support the group's aims. In addition, she and other members of the group regularly used camcorders to film women and their possible clients in the streets. They published photographs in a newsletter circulated in the area, and some of the film was shown on local television.

A number of night-time marches and demonstrations by members of Streetclean provoked violent confrontations with the women and various men associated with them. The police have now decided that they might need to intervene to control any further activity by Streetclean. The local authority intends to prosecute Frances for a criminal offence involving persistent breach of planning regulations by using her house to advertise Streetclean.

- (a) Ignoring the Human Rights Act 1998 and the European Convention on Human Rights, discuss the powers available to the police to control further marches and demonstrations by Streetclean, **and** consider what rights may be available to those filmed by Streetclean members. *(25 marks)*
- (b) Discuss the effect of the Human Rights Act (HRA) 1998 and of the European Convention on Human Rights (ECHR) on your answer to (a) above, and on the proposed prosecution of Frances by the local authority. *(25 marks)*
- (c) **EITHER**

Discuss the extent to which English law (including the HRA 1998 and the ECHR) succeeds in establishing an appropriate balance between the protection of freedom of expression and the protection of interests in privacy. *(25 marks)*

OR

Discuss the extent to which English law (including the HRA 1998 and the ECHR) succeeds in establishing an appropriate balance between the protection of freedom of expression and interests in the preservation of public order. *(25 marks)*

Turn over for the next question

Consumer Protection

7

Total for this question: 75 marks

Martin sent out a monthly mail-order catalogue with an explanatory letter. The letter said that any customer who ordered items in five successive months, to a total value of not less than £500, would be entitled to choose one free item from the next month's catalogue, to a maximum value of £75. Nigel spent a total of £520 in the next five months but, when he received the catalogue in the sixth month, all the items listed were worth less than £10. When he refused to order any item and complained, he was told that he had 'failed to comply with the terms of the offer' and was no longer entitled to any free item.

Nigel bought two sets of ladders from Owen's Store. The ladders were made by Safestep Ltd. One set was for himself and the other set he gave to his son, Peter, for Peter's new house. When Nigel tried to use his ladders, he found that they were scratched and dented and were not long enough for his purposes. Though the three sections added up to a total length of 8 metres, as indicated on the labels, when extended their usable length was only 6.5 metres. Owen's Store would not refund Nigel's money, and would only exchange the ladders for a longer set if he paid more. When Peter used his ladders, they collapsed under his weight because of a faulty mechanism securing the extending sections. Peter fell through the roof of his kitchen, badly injuring himself and causing £400 worth of damage to the kitchen.

- (a) Discuss Martin's civil **and** criminal law obligations in connection with the mail-order items, and consider what rights and remedies Nigel may have against Martin. *(25 marks)*
- (b) Consider the rights and remedies of Nigel and of Peter against Owen's Store and Safestep Ltd. *(25 marks)*
- (c) Discuss the suggestion that the rights of consumers, and the remedies available to them, against providers of goods and services, are now adequately protected by law. *(25 marks)*

Ray arranged to have a suit made for him by Steve for £400 for Tom's wedding, which he would be attending as best man in eight weeks' time. After four separate fittings, and with only two weeks left before the date of the wedding, Ray was dismayed to find that the shoulders of the jacket did not fit properly, that the lining appeared to be of material of inferior quality, and that the trousers had no back pocket. He refused to pay for the suit, or to give Steve any further time to make alterations, and bought a ready-made suit for £490.

As his wedding present to Tom and his bride, Ray bought a set of twelve crystal wineglasses from Flewleys for £300. The glasses were packed in a special presentation cabinet and Ray arranged for them to be sent directly to Tom by Flewleys. When Tom opened the present a month later, after returning from his honeymoon, he discovered that the presentation cabinet was dirty and poorly constructed, that one glass had a small crack, and that there were eight glasses for red wine but only four for white wine. Tom's complaint was rejected by Flewleys on the grounds that he did not buy the glasses and that, in any case, a notice in the shop clearly indicated that any complaints must be made within one week of purchase.

- (a) Discuss the rights, duties and remedies, if any, of Ray and of Steve in connection with the arrangement for the making of the suit. *(25 marks)*
- (b) Discuss Tom's rights and remedies, if any, against Flewleys in connection with the wedding present. *(25 marks)*
- (c) Discuss the suggestion that the rights of consumers, and the remedies available to them, against providers of goods and services, are now adequately protected by law. *(25 marks)*

END OF QUESTIONS

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