

OXFORD CAMBRIDGE AND RSA EXAMINATIONS

Advanced GCE

LAW

2573

Criminal Law Special Study

Friday

28 JANUARY 2005

Morning

1 hour 30 minutes

Additional materials:

16-page Answer Booklet

Special Study Materials

TIME 1 hour 30 minutes

INSTRUCTIONS TO CANDIDATES

- Write your name, Centre number and candidate number in the spaces provided on the answer booklet.
- Answer **all** questions.
- If you use additional sheets of paper, fasten these securely to the answer booklet.

INFORMATION FOR CANDIDATES

- The number of marks is given in brackets [] at the end of each question or part question.
- The total number of marks for this paper is **100**.
- **All questions should be answered in continuous prose. You are reminded, therefore, that you will be assessed on your ability to organise and present information and arguments logically and coherently, and to communicate clearly and accurately, taking into account grammar, punctuation and spelling.**

This question paper consists of 2 printed pages.

You are reminded of the importance of including relevant knowledge from all areas of your course, where appropriate, including the English Legal System.

Answer all questions.

- 1 In Source 1 [page 2 lines 22–24 Special Study Materials] Lord Denning identifies that: “in times past the House of Lords used to correct errors into which the lower courts had fallen – and indeed errors into which the House itself or its predecessors had fallen – and ... it used to create new precedents to meet new situations.”

Consider the extent to which this is an accurate description of the application of precedent in the House of Lords before and after the introduction of the Practice Statement 1966. [25]

- 2 Discuss the extent to which the precedent in *Re A (Conjoined Twins)* [Source 11 page 7 and Source 12 page 8 Special Study Materials] represents a development of the law on necessity. [15]

- 3 Lord Hailsham in *Howe* explains the defence of duress by saying that “in such circumstances a reasonable man of average courage is entitled to embrace as a matter of choice the alternative which a reasonable man could regard as the lesser of two evils.” [Source 3 page 3 lines 7–9 Special Study Materials].

Consider the extent to which the development of the restrictions on the use of duress really allow ‘a reasonable man of average courage’ to exercise such a choice. [30]

- 4 Denis, Ian and Peter are all students of Chris’s in the law school where Chris works as a lecturer.

Consider whether or not Chris would have a defence of duress available in each of the following situations:

- (a) Denis, who has failed EU law, comes to Chris’s room with a gun and threatens to kill Chris unless Chris goes directly to the EU lecturer’s room and kills her with a knife that Denis gives him. Chris goes to the room, enters and tries to stab the lecturer but she quickly holds a large book up in front of her preventing the knife from touching her.
- (b) Ian comes to Chris’s room and threatens that unless Chris immediately steals volumes of law reports for Ian from the research library that he will reveal to the Dean of School that Chris is having an affair with one of the third year students. Chris steals the law reports for Ian.
- (c) Peter, who has failed all his first year modules, phones Chris from Spain during the vacation after hearing his results and threatens Chris that unless Chris burns down the law school he will kill him when he returns from Spain. Chris does set fire to the law school.

[30]