



THE LAW SOCIETY OF SCOTLAND EXAMINATIONS

SCOTS CRIMINAL LAW

Wednesday 9 MAY 2007

1330 – 1630
(Three Hours)

**Candidates should attempt any FIVE questions,
with at least ONE question taken from Section B.**

**Answers should be fully reasoned and supported
by adequate citation of authority in all cases.**

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SECTION A

1. How satisfactory is Scots law on the crime of conspiracy?
2. What are the main characteristics of the crime of embezzlement? How does embezzlement differ from theft?
3. To what extent does Scots criminal law allow for strict liability?
4. Discuss the nature and scope of the defences of (i) diminished responsibility and (ii) provocation.
5. Write a critical account of the defences of necessity, coercion, and superior orders.
6. It is a general rule of Scots criminal law that a person is not held liable for omitting to act. Discuss the exceptions to this general rule.

SECTION B

7. Bart and Betty are flatmates. One evening they are cooking in the kitchen together when an argument breaks out over who ate the last egg. Bart has been suffering from depression and he was planning to make pancakes to cheer himself up but he is now in a very bad mood and starts waving a pan above his head in a temper. As Betty leans towards him pointing and shouting, Bart thinks she is about to strike him and hits her over the head with the pan. She falls to the floor unconscious. Bart sees her lying on the floor and assumes he has killed her and runs out of the house in a panic. A little while later, Mr Brown who lives across the street comes to borrow some sugar, sees Betty on the floor. He decides that he shouldn't interfere and goes home again. Her mother comes round for dinner later and discovers Betty lying there, and calls for an ambulance.

When Betty arrives at the hospital, it is discovered that she has an unusually thin skull and that Bart's blow has caused a brain haemorrhage. Betty is treated by a doctor who misreads her medical notes and treats her with medication that she is allergic to. Betty dies later that night as a result of a combination of the treatment and her injuries.

Discuss the possible criminal liability arising from this situation.

8. X (a man) has had sexual intercourse with A (a woman). For some time X had been infected with HIV. Before the intercourse, A asked X if he had HIV. X said that he did not have HIV. A now knows the truth about X but she has found out from her doctor that she does not have HIV and will not contract the virus as a result of the intercourse with X.

X also had sexual intercourse with another woman, B. Before the intercourse, B asked X if he had HIV. X said that he did not have HIV. B has now been told by her doctors that she has HIV and is likely to die as a result of it within 5 years.

Discuss the possible criminal liability of X.