

Theft Act 1968 'A person is guilty of theft if he dishonestly appropriates property belonging to another, with the intention to permanently deprive.'

Section 3 'any assumption of the rights to an owner amount to **appropriation**.' **R v Morris (1983)** Any assumption of the owners' rights is an appropriation **R v Gomez (1993)** held a dishonest appropriation. **Lawrence** – owner consents.

Section 4- property 'includes money, real or personal, including things in action and other intangible property'. **Oxford v Moss (knowledge)**.

5(1) property = '**belonging to any person** having possession or control over it or having any proprietary right or interest'. **R v Turner (1971)** - your own property can be stolen if its in possession or control of someone else. Property can belong to more than one person at same time. Lost property under s5 (1) - property still belongs to owner if they have interest in it. **S5(3)** - (**Davidge v Bennet 1984**- You have to use the property for the purpose it was given. Receiving property by mistake **S5 (4)** – the defendant has a legal obligation to return the money. (Attorney Generals 1983 reference – employer paid more than entitled salary to employee)

Dishonesty not defined - **2(1)** sets out the 3 negatives **S2(1)(a)** - believes they have a right in the law to the property (b) – believes owner would consent to the taking (c)- owner cannot be discovered by taking the reasonable steps. If not apply objective test. **R v Ghosh** and confirmed in **Ivey v Genting Casinos**. 'Was D dishonest by the standards of ordinary, honest and reasonable people?

Intention to permanently deprive - **S.6 (1)** The D intends to continue to treat the property as their own regardless of the owners' rights...Intending to replace property – 'velumyl (Not same)
Borrowing property **Lloyd** (virtue value gone) **Conditional intent**- **Easom** (worth stealing)

Voluntary - **DPP v Majewski** – drew distinction between specific/ basic intent crimes. Specific – defence available if so intoxicated that they could not form the men's rea. Basic intent – defence is not available because intoxication is evidence of reckless. (**Richardson & Irwin** – defence available if the defendant would not see the risk sober.) **Dutch courage** (**Gallagher**) defendant uses drink 4 strength to commit crime/had men's rea before. **Involuntary** – **Kingston** available - both specific and basic intent crime. Defence is available if D was so intoxicated that they could not form men's rea. 'Drugged intent is still an intent' **Hartie** – unexpected effects of prescribed drugs.

Self-defence - **Section 76** criminal justice & immigration act 2008 states defence can be used: to protect yourself, someone, prevent a crime. **S.76(3)** defendant genuinely believes the force was necessary in circumstances - subjective test. **s76(4)** if the d made mistake as long as it was genuine defence is available. **s76 (5)** defendant mistake due to intoxicated: defence lost. pre-emptive strike – defendant uses force 1st because they are about to be hit. **Beckford** (law doesn't expect u to wait to be hit). **Lord Morris in Palmer** – if under attack not expected to be able to judge exact force they should return. If acted honestly and instinctively – get defence. excessive force: **Martin** lose defence) Force in home-crime and courts act 2013 – can be disproportionate as long as it's not grossly disproportionate.

Under s1.1 Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 – evidence 2 doctors, 1 expert in mental health. This burden is for the defendant prove. **M'NAUGHTENS** case defined insanity as having 3 stages. (**Defect Clarke** – held that temporary absent mindedness or forgetfulness is not enough.) **Disease; Mind Hennessy** – Diabetes (high blood sugar) - Defendant claimed defence after driving a stolen vehicle. **Sullivan** – Epilepsy – injured a lady during a fit. **Burgess** – Sleep walking **Nature: Windle** – Killed his wife and said 'I suppose ill hang for this'.

Automatism - **Bratty v AG**– Lord Denning defined "An act done by the muscles *without control of the mind*" **Hill v Baxter** - Reflex/Spasm - Reacting to bees or sneeze/ **Quick** - Diabetes (low blood sugar) Not eating regularly (external influence) **Broome V Perkins** actions must be involuntary. lost full control, not partial. **Bailey**: not self-induced – diabetic was eating raw sugar/reckless **Lord Denning** 'without control of the mind' no men's rea

Duress -**Valderama** – **Vega** there must be a threat of death or serious injury. **Hasan** – the threat must be immediate or almost immediate, so you don't have time to go to the police and no opportunity to escape. **Graham** – 2 stage test... Did defendant act because he reasonably believed that if he did not, he would suffer? Would a sober person of reasonable firmness have responded by committing a criminal offence? **Self-induced duress** – if you join a gang/bring pressure on yourself (**Hasan**)

The Answer Sheet For Law Of The Donut

Jin-Ying Zhang



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