



**THE HONORABLE SOCIETY OF KING'S INNS**  
**ENTRANCE EXAMINATION**  
**AUGUST 2017**

**Examination: Criminal Law**  
**Date: Tuesday 15 August 2017**  
**Time: 10.00 a.m. – 1.00 p.m.**  
**Internal Examiner: Mr Tom O'Malley NUIG**  
**External Examiner: Mr Michael O'Higgins SC**

**INSTRUCTIONS: Candidates MUST answer Question 1 and two other questions.**

**Question 1 carries 50 marks. All other questions carry 25 marks each.**

This paper is 4 pages long including the cover sheet. You should check that you have all the pages and inform the invigilator immediately if any are missing

## QUESTION 1

John was recently convicted of rape following a trial in the Central Criminal Court. The prosecution case was that in March 2016, when he was 19 years of age, he met Sandra, then aged 18 years of age, in a pub one evening. About midnight, by which time both of them had several drinks taken, she agreed to accompany him back to his apartment. After they had one or two more drinks there, he raped her (according to the prosecution). John admitted that he had sexual intercourse with Sandra but claimed that she had consented. Sandra, in her statement to the Gardaí, said that she could recall sexual intercourse having taken place between John and herself, but that she was intoxicated at the time, and that she would not have permitted him to have intercourse with her if she had been fully sober. She claimed that John had taken advantage of her intoxicated state, and that she did not therefore believe that she could be said to have consented. At the close of the trial, the judge instructed the jury as to the relevant law and, in the course of doing so, he made the following five statements:

- (1) John's intoxicated state could in no circumstances afford him a defence to a charge of rape;
- (2) The key questions in this case were whether Sandra had consented and, if she had not, whether John reasonably believed that she was consenting;
- (3) The jury had to decide if, as a matter of fact, Sandra's intoxicated state had rendered her incapable of consenting in any meaningful way to sexual intercourse.
- (4) A heavily intoxicated person cannot, as a matter of law, consent to a sexual act.
- (5) As a matter of law, a man who wishes to have sexual intercourse with a woman in circumstances such as these is obliged positively to satisfy himself that the woman is both capable of consenting and is, in fact, consenting.

John was convicted of rape by the jury, and he is now considering appealing against his conviction. You are asked to consider the above five statements in the judge's charge to the jury and to advise John as to whether any or all of them might provide him with viable grounds for challenging his conviction.

**[50 marks]**

## **QUESTION 2**

One evening in May 2017 when Peter was 13 years of age, he was at a party in a youth club when he got into a dispute with Andrew, also aged 13 at the time. At one point during their argument, Andrew said to Peter: "It's easy known you are a Traveller". He then repeated that assertion, using more insulting terminology. Peter reacted by picking up a breadknife which happened to be lying a table next to him. He stabbed Andrew twice with the knife and Andrew died soon afterwards from the stab wounds. When questioned by the Gardaí, Peter said that he had become so infuriated at Andrew's remarks that he "just lost it", and that this explained why he reacted as he did. Peter, who is not in fact a member of the Travelling Community, has now been charged with Andrew's murder and he has sought your advice as to any defence(s) he may have to that charge. Advise him.

**[25 marks]**

## **QUESTION 3**

James runs a grocery shop in a small provincial town. Until recently, this was the only grocery shop in the town in question, but in January 2017 John and Margaret arrived in the locality and opened up another grocery shop nearby. This had an adverse effect on James's business. In the early hours of a Sunday morning in February 2017, James went to the premises owned by John and Margaret, entered it at ground floor level by a back window and set fire to it. The premises was destroyed and, unfortunately, John and Margaret, who were sleeping upstairs, died in the blaze. James claims that he had been told by neighbours that John and Margaret always went to visit Margaret's parents on Sunday evenings and that they did not usually return home until the following morning. He admits that he intended to destroy the shop, but claims that he genuinely believed that the building was uninhabited at the time. James has now been charged with the murder of John and Margaret. Advise him as to whether he is likely to be convicted of murder in these circumstances.

**[25 marks]**

#### **QUESTION 4**

Vincent had been employed for many years by a supermarket, but in April 2017, he was suddenly made redundant. He was very upset at this decision on the part of the supermarket management, as he had no prior notice of it. About a week after he was made redundant, he took a shotgun, which he legally held, and went to the residence of the supermarket manager. The manager happened to be outside his house working in the garden. As Vincent approached the manager, he shot him in the chest and then walked away. The manager sustained serious injuries but later recovered. Vincent has now been charged with attempted murder and is awaiting trial. There will be medical evidence that Vincent suffers from endogenous depression and that this can be exacerbated by any stressful or traumatic experience, such as suddenly losing one's job. In light of this evidence, you are asked to advise Vincent as to any defence he may have to the charge of attempted murder.

**[25 marks]**

#### **QUESTION 5**

Katie, who is a drug addict and who was desperately in need of money to buy drugs, was walking along a Dublin street. She noticed a woman's handbag in the back seat of a parked car. She used an implement that she had with her to try to prise open the car door, but had to abandon the exercise when she saw a member of the Gardaí approaching. Her action caused some damage to the paintwork of the car. She then ran on to another street where she approached a man who was speaking on his mobile phone. She grabbed the phone from him and turned to run away with it, but he caught her by the arm and tried to restrain her. However, she used a nail file which she was carrying to stab him in the hand, with the result that he had to let go of her, and she was able to run off with the mobile phone. However, she was arrested by the Gardaí very soon afterwards. In light of this information, you are requested to advise the Director of Public Prosecutions as to the offences with which Katie might most appropriately be charged, and to give reasons for your advice.

**[25 marks]**