Examination Questions and Answers

Question 1

Claire was in love with a former work colleague, Aidan. She had pursued him for over a year with cards, letters and telephone calls, even following him home from work. Consequently, Aidan was a nervous wreck. He received psychiatric treatment and gave up his job. One day, Claire sent Aidan an email giving him a week's notice that unless he agreed to marry her, she would break his legs. That evening, Aidan spotted Claire hiding outside his house in the bushes. Believing that she was going to attack him Aidan picked up a pair of scissors and ran outside. He grabbed hold of Claire and cut off her pony tail. In fact, she was merely observing his movements with binoculars. The shock caused Claire to lose momentary consciousness. She fell to the ground and cut her forehead on a sharp stone. Later that night, after three whiskies to calm his nerves, Aidan looked into his garden and thought he saw Claire climbing over the fence. He took loaded rifle from a drawer and fired one shot at Claire's right shoulder. The intruder was not Claire in fact, but a journalist hoping to catch a photograph of further harassment.

Discuss.

Claire:

- *Stalking, Protection from Harassment s1*
- *Telephone calls etc and email: assault subject to immediacy/ABH/S20 psychological harm;*

Aidan:

- *On Claire - Pony tail (Smith)/loss of consciousness (R(T) v DPP)/wound: ABH/s20*
- *mistaken self-defence*

- *S18 GBH on journalist but drunken mistake in self-defence/excessive force.*

Journalist: No crime – no burglary in absence of relevant ulterior intent.

Question 2

Dennis was a registered dental practitioner but had been suspended from practice by the General Dental Council because of his alcoholism. Nevertheless, he continued to work and one day removed two of Alice's teeth quite

unnecessarily having drunk more than half a bottle of wine. Dennis had a keen interest in women's breasts.

Whilst filling one of Belinda's teeth one day, he falsely stated that he was compiling medical research on the effects of diet and asked whether he could check her breast size. Belinda agreed and allowed him to measure her. At the same time, Dennis took out a small whip and spanked her bottom, causing minor abrasions. That night, Dennis met his colleagues at a party thrown by Fred. Having consumed a large amount of alcohol, Dennis and Ralph decided to throw Fred up in the air and then out of the window for a laugh. Fred suffered a ruptured spleen and broken ribs. When Alice and Belinda discovered the truth about Dennis they complained to the police. Dennis professed a mistaken belief in Belinda's agreement to being spanked.

Discuss.

Dennis:

- *Assault/ABH on A re teeth.*
- *Defence of consent unlikely to work – deception as to quality (Tabassum – contrast with Richardson). Intoxication will not work – offence of basic intent (Majewski).*
- *ABH/sexual assault on B.*
- *Defence of consent unlikely (mistake as to quality: Tabassum) or spanking: no consent to harm through private consensual activity (Brown).*
- *Mistaken belief in consent: ABH – Morgan applies. Mistake must be honest but need not be reasonable. Sexual offence: Morgan no longer applies to offences under the SOA 03. Any mistaken belief must therefore be honest and reasonable.*

Dennis + Ralph:

- *S20 GBH but consent (horseplay)?*
- *Intoxication will not work subject to reasoning in Richardson & Irwin.*

Question 3

Amy and Bill have been going out together for several months. In fact, Bill is her first boyfriend. One day Amy is diagnosed as being HIV positive. Distraught, she goes straight to the ABC Cinema where she knows Bill will be watching a film. She switches off the mains electricity, places an iron bar across the only exit door and shouts 'Fire'. Bill suffers a broken arm, a ruptured spleen and a head wound in his rush to escape. Amy breaks off the relationship but Bill knows she will change her mind. He begins to follow Amy, sending her letters every day and making numerous telephone calls. This is all to no effect but he persists.

After a while his calls take on a threatening tone, some of them nothing but silence.

Amy becomes a nervous wreck. She later claims not to have foreseen any serious injuries to Bill in the cinema. She simply wanted to teach him a lesson. However, shortly beforehand she had begun hearing voices and was not feeling herself. Bill admits he knew he was HIV positive but claims he was ignorant of the risks of transmission.

Discuss.

Amy:

- *ABH,s20,s18 OAPA 1861 on B. Recklessness/intention.*
- *Defence: Insanity.*

Bill:

- *HIV - S20 but was he reckless as to the risks of transmission?*
- *Psychological assault/Protection from Harassment – ABH/s20.*

Question 4

Farouk was a leading footballer with Portchester United who were at the bottom of the league. During a decisive match against Plympton City, Farouk made a crushing, late and unnecessary high tackle against Thierry in the eightieth minute of the game. Thierry suffered a fractured pelvis. That night, after consuming six pints of beer, Farouk got into an argument with some Plympton City fans. He called Ahmed a 'bastard' and made insulting references to his race and religion. He then punched him in the face, knocking out his front teeth and cutting his face below the left eye. At home later that night Farouk sent fifty email messages to June, his former girlfriend. Each email message contained a threat of violence upon her if she carried out her plan to sell her story of their relationship to a national newspaper. Farouk had left both threatening and silent messages on June's answer-phone over the past three months causing June anxiety, depression and weight-loss.

Discuss.

Farouk:

- *GBH re Thierry but was he reckless?*
- *Defence of consent*
- *On Ahmed: ABH/aggravated assault under 1998 Crime & Disorder Act and s39 Anti-Terrorism Crime & Security Act 2001*

- *On June: psychological assault/harassment/s20.*

Question 5

Anand and Clara enjoyed an unusual and energetic love-life. One day, Anand poured lighter-fuel over Clara's breasts and set it alight. Clara did not mind. She was only mildly burnt. The next evening, Anand met some friends at a party. After consuming alcohol, Anand suggested they all dress up in fire-resistant suits and set fire to each other, just for a laugh. Larry, one of the group, was set on fire by Anand. He suffered burns to his right arm.

Anand had never informed Clara that he was HIV positive and after three occasions of unprotected sexual intercourse he transmitted the disease to her. Anand stated in evidence at his trial that he did not think there was a high risk of transmitting the disease to Clara in such circumstances. He also claimed that because he had been drinking, the risk of harm to Larry was not obvious to him.

Discuss.

Anand: Burns to C – ABH. Defence of consent will not work: Brown.
Burns to L - s20 GBH. Defence of consent might work: Aitkin
Defence of intoxication should not succeed with an offence of basic intent (Majewski). However, the argument re MR might work if the court follows Richardson v Irwin - but this is generally regarded as having been wrongly decided.