

## Answers to self-test questions

### Chapter 10

**1. Identify the elements of robbery.**

Under s.8, Theft Act 1968, robbery requires theft and immediately before or at the time of stealing and in order to steal, the defendant must use force or put or seek to put any person in fear of being then and there subjected to force.

**2. Explain the degree of entry is required for burglary. Cite authorities to support your answer.**

According to *Collins* (1973), entry must be “effective and substantial”. However, in *Brown* (1985), the Court of Appeal held that “substantial” did not add anything and that entry only had to be “effective”. In *Ryan* (1996), the court held that the defendant had entered the building even though he was unable to actually steal anything due to being trapped. The cases are inconsistent and the law is not clear. It would appear that as a result of *Ryan*, the cases have taken a step back in the direction of the old common law position prior to the Theft Act 1968 when the insertion of any part of the body into the building amounted to entry. Whether the old common law reflects the current law remains to be seen.

**3. Identify the *mens rea* of burglary under s.9(1)(a) of the Theft Act 1968.**

Intentional entry, knowledge or recklessness as to the trespass, and an ulterior intent to steal, do GBH or unlawful damage.

**4. Identify the *actus reus* of burglary under s.9(1)(b) of the Theft Act 1968.**

Entry, of a building or part of a building, as a trespasser, with the *actus reus* element of one of the ulterior offences, either theft, attempted theft, GBH or attempted GBH.

**5. Explain when the defendant must have the weapon with him for the purposes of aggravated burglary under s.10(1) of the Theft Act 1968.**

If burglary has been committed under s.9(1)(a), the defendant must have the weapon with him at the time of entry.

If burglary has been committed under s.9(1)(b), the defendant must have the weapon with him when he commits the ulterior offence. See *O'Leary* (1986).

**6. What are “menaces” for the purposes of the offence of blackmail?**

In *Thorne v Motor Trade Association* (1937), HL, Lord Wright stated that “the word ‘menace’ is to be liberally construed and not... limited to threats of violence but... including threats of any action detrimental to or unpleasant to the person addressed”. Menaces is “an ordinary English word”, so a trial judge will not usually be required to give the jury any further direction as to its meaning: *Lawrence & Pomroy* (1971).

In *Clear* (1968), the Court of Appeal held that menaces would be “threats or conduct of such a nature and extent that the mind of an ordinary person of normal stability and courage might be influenced or made apprehensive so as to accede unwillingly to the demand”.

**7. When is a demand unwarranted?**

Under s.21(1), any demand with menaces is unwarranted unless the person making it does so in the belief (a) that he has reasonable grounds for making the demand, and (b) that the use of the menaces is a proper means of reinforcing the demand.

**8. What constitutes damage under the Criminal Damage Act 1971? Cite authorities to support your answer.**

The damage need not be permanent. It has been held that trampling down grass amounts to damage: *Gayford v Chouler* (1898). The damage must be more than merely trivial or nominal: *A (a juvenile) v R* (1978). What constitutes damage is a matter of fact and degree: *Roe v Kingerlee* (1986).

In *Hardman v Chief Constable of Avon & Somerset* (1986), there was criminal damage where D had painted on the pavement in water-soluble paint, even though it could be washed away, because had it caused expense and inconvenience to the Local Authority.

In *Samuels v Stubbs* (1972), there was held to have been damage to a police officer’s cap even where it could be pushed back into shape.

**9. Explain when a defendant might have lawful excuse to damage.**

Section 5(2), Criminal Damage Act 1971 sets out the instances in which a person will be deemed to have lawful excuse for the damage or destruction. This section applies to the offence of simple criminal damage under s.1(1), Criminal Damage Act 1971, but does not apply to the aggravated form of the offence under s.1(2).

Under s.5(2)(a), a person will have lawful excuse if he honestly believed that he had the consent of the owner of the property or that he would have had the consent of that person to destroy or damage the property had he known of the circumstances.

Under s.5(2)(b), a defendant will have lawful excuse if he acted in order to protect property in the honest belief it was in immediate need of protection and that the means of protection adopted were or would be reasonable having regard to all the circumstances.

**10. What is the *mens rea* of aggravated criminal damage under s.1(2) of the Criminal Damage Act 1971?**

There are two *mens rea* elements of the offence under s.1(2):

- an intention to destroy or damage property or recklessness as to whether or not property is destroyed or damaged, and
- an intention by the destruction or damage to endanger the life of another or recklessness as to whether the life of another would be thereby endangered.