

Copyright ...

- Strode's College Laws students are free to make use of this 'Pdf Print files' for study purposes (they should print them off and take them to class).
- **Others should ask before copying or using these 'Pdf Print Files'.**
- Copyright of Dr Peter Jepson - law@peterjepson.com

Intoxication

Intoxication covers both excessive drinking and drug taking.

As a general rule D will NOT be able to rely on the defence of intoxication if s/he has voluntarily put themselves into that state and then committed a crime.

PRECIS NOTES WILL BE CHECKED

1

Silence in this Lecture

Please turn off your mobile - Take notes
Raise your hand if you have a question

No Food or Drink in this Classroom

Please place any litter in the bin.

Leave your chair neatly under the desk when leaving.

2

Voluntary Intoxication

- In **DPP v Beard [1920]**, it was stated ...
- “Voluntary drunkenness was never an excuse for criminal misconduct; and indeed the classic authorities broadly assert that voluntary drunkenness must be considered rather an aggravation than a defence.”

3

Voluntary intoxication and specific intent crimes

- However, during the nineteenth century the judges **began to allow intoxication as a defence for serious crimes where there is a specific intent involved.**

The problem is that it is not easy to classify crimes into ones of basic intent and specific intent.

4

Voluntary intoxication and specific intent crimes

- The only reliable way of determining if a crime is one of **basic intent** or **specific intent** is to remember the specific intent ones and classify all others as basic intent.

Specific Intent Crimes: Murder - Theft

Aggravated Criminal Damage (intent/reckless to endangering life).

GBH – malicious wounding – **under s18 OAPA 1861.**

5

Basic intent crimes and intoxication

- As stated in DPP v Beard [1920] intoxication cannot be used as a defence for basic intent crimes.
- **Examples of basic intent crimes** are **manslaughter, rape**, malicious wounding or **GBH under s.20 OAPA 1861**.

6

Basic intent and intoxication

The rule that drunkenness is no defence in crimes of basic intent was categorically affirmed by the H of L in DPP v Majewski [1976].

Read and produce a case note on Majewski and the case of Fotheringham [1988].

7

DPP v Majewski [1977]

- The defence of intoxication is available for specific intent crimes **IF** the defendant is so drunk or drugged that he is not able to form the *mens rea* for the offence in question.

8

Specific Intent and Intoxication

- In **Lipman [1970]** D and V were both addicted to drugs. D killed V – under LSD – when he suffocated/hit her because in his trip he thought she was a snake in the centre of the earth.

The Jury found him guilty of manslaughter. The C of A upheld the verdict. They decided **he could not be found guilty of murder, a specific intent crime, if the intent to kill or cause GBH could not be established.**

9

Specific Intent and Intoxication

- Do you agree with the case of **AG for Northern Ireland v Gallagher [1963]**.
- What is the reasoning behind Lord Denning’s comments about ‘Dutch courage’?

10

Involuntary Intoxication

- **Pearson [1835]** – ‘If a party be made drunk by stratagem, or the fraud of another, he is not responsible.’

In **Allen [1988]** it was affirmed that an intoxication defence is not available to someone who starts off drinking voluntarily, but fails to recognise the strength of it and had acted out of character thereafter.

11

Calming or soporific or sedative drugs

Hardie [1985] - D had taken several Valium tablets after being assured they were old stock which would not do any harm. He fell asleep, then while in that state started a fire in a wardrobe.

Jury found him guilty of arson, but C of A allowed appeal because this drug is wholly different from drugs which are likely to cause aggressiveness or unpredictability.

12

Involuntary Intoxication

- **Kingston [1994]** seems very harsh. D had been lured to a flat along with a 15 year old boy who was drugged and was asleep on a bed.
- D was then invited to abuse the boy and for blackmail purposes was photographed and taped.

D claimed that he had been drugged also and if he had not been intoxicated he would have controlled himself and his tendencies.

13

Involuntary Intoxication

- **Kingston [1984]** – continued ...
- The **Court of Appeal** decided if this was the case the defence of involuntary intoxication should be open to him.

Worried about the implications of this the H of L refused to allow this.

15

Current state of law

- Once the intent to commit the crime in question is proved intoxication is no defence.

This applies whether the offence is one of basic or specific intent and whether the intoxication is voluntary or involuntary

Reform of Intoxication

- **Reform is a vital element. Read and take notes on this area.** In particular, read other 'Criminal Law' textbooks and relate to the **Butler Committee and a proposed new offence of dangerous intoxication** (see also page 214 of 'Criminal Law' by Diana Roe.
- **For revision – note the key facts summary on page 215 of 'Criminal Law' by Diana Roe.**

16

Break into Law firms ...

- **Do the activity on page 215 of 'Criminal Law' by Diana Roe.**

17
