

TEXT, CASES AND MATERIALS ON **CRIMINAL LAW**

SECOND EDITION



 **Pearson**

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- **Deep links to key case reports and statutes hosted in LexisLibrary** are embedded throughout each chapter so you can access a wealth of wider reading with a single click*.



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Apply the law

The following events involve the characters Andrew and Robert, who are work colleagues. Read the problem scenario carefully then answer the multiple-choice questions below to apply your learning to the scenario.

Problem scenario

Andrew and Robert are work colleagues. Andrew feels he is undervalued by his boss, David, and is very angry that Robert, whom he considers less capable and hardworking, has been promoted ahead of him. Andrew arranges to meet them both one evening and sets off in his car, planning to kill them when he arrives. On the way, and through no fault of his own, Andrew is involved in a road accident in which his car knocks over a pedestrian who is killed instantly. By sheer coincidence, the pedestrian happens to be Robert. Andrew is secretly rather pleased: opportunities at work improve, and all murderous thoughts as to David disappear from his mind.

a. Could Andrew be convicted of murdering Robert? Explain your reasoning.
b. How would your answer be different if, after the accident, Andrew had climbed out of his car, recognised Robert, pulled out a gun and shot him?

8.20 Which of the following would **NOT** be a building for the purposes of s. 9 burglary?

☐ A caravan.
☐ A houseboat.
☒ A bus.
☐ A freezer.

This is correct.
A bus is not 'an inhabited vehicle or vessel' for the purposes of s. 9(4) of the Theft Act 1968.


8.21 How many different ways can the general offence of fraud be committed, contrary to s. 1 of the Fraud Act 2006?

☐ One.

So if an act is complete, any subsequent formulation of *mens rea* cannot convert the completed act into a crime. We saw this earlier in the example with Andrew and the iPad, by the time he discovered whose iPad it was the *actus reus* had already occurred.

But if a defendant forms the necessary *mens rea* whilst the act is still continuing, then he may be liable. Crucially, the Divisional Court held that the infliction of force onto Morris' foot was a continuing act, which began when Fagan drove onto it and continued until he drove off. Fagan thus formed the *mens rea* whilst the act was still continuing and so, as Figure 2.2 illustrates, *actus reus* and *mens rea* coincided in time.

Before moving on, it is worth noting that some commentators have questioned the reasoning in *Fagan v Metropolitan Police Commissioner*. They suggest that a better justification for Fagan's liability can be found in the law on omissions. We will examine this suggestion in the next chapter.

 LexisNexis®

Click here to read *Fagan v Metropolitan Police Commissioner* in full. Look out for the dissenting judgment of Bridge J. Do you agree with his reservations about the reasoning of the majority?

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Text, Cases and Materials on Criminal Law

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