

## CASES ON ACTUS REUS

### THE ACTUS REUS MUST BE VOLUNTARY

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#### ***R v Quick*** [1973]

The defendant, a diabetic was charged with assaulting his victim. The assault occurred whilst the defendant was in a state of hypoglycaemia (low blood sugar level due to an excess of insulin). The court held that the defendant should have been acquitted on the ground of automatism. His unconscious state had been the result of external factors, ie the taking of insulin.

#### ***Leicester v Pearson*** (1952)

A car driver was prosecuted for failing to give precedence to a pedestrian on a zebra crossing, but was acquitted when it was established that his car had been pushed onto the crossing by another car hitting it from behind.

### “STATE OF AFFAIRS” CASES

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#### ***R v Larsonneur*** (1933)

The defendant was a French national who had entered the UK lawfully, but was given only limited permission to remain in the country. At the end of that period the defendant left England, not to return to France, but to travel to the Irish Free State. The Irish authorities made a deportation order against her, and she was forcibly removed from Ireland and returned to the UK. On arrival in England the defendant was charged under the Aliens Order 1920, with “being found” in the UK whilst not having permission to enter the country. The defendant was convicted, and appealed on the basis that her return to the UK had not been of her own free will, in that she had been forcibly taken to England by the immigration authorities. The Court of Appeal dismissed her appeal on the simple basis that the prosecution had proved the facts necessary for a conviction.

#### ***Winzar*** (1983)

The defendant had been admitted to hospital on a stretcher. Upon examination he was found to be drunk and was told to leave. Later he was found in a corridor of the hospital and the police were called to remove him. The police officers took the defendant outside onto the roadway, then placed him in a police car and drove him to the police station where he was charged with “being found drunk in a public highway”.

The defendant was convicted, and appealed on the ground that he had not been on the public road of his own volition. The Divisional Court upheld the conviction holding that all that was required for liability was that the defendant should be perceived to be drunk whilst on a public highway. There was no need for the court to have any regard as to how he came to be there.

## OMISSIONS

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### ***Greener v DPP*** (1996)

The defendant was the owner of a young, powerful Staffordshire Bull Terrier. He had left the dog chained in an enclosure in his back garden. The dog had strained and bent the clip releasing its chain. It had escaped from the enclosure and entered a nearby garden where it bit the face of a young child. Section 3(3) of the Dangerous Dogs Act 1991 provides that if the owner of a dog allows it to enter a place which is not a public place but where it is not permitted to be and while it is there it injures any person, he is guilty of an offence. It was held by the Divisional Court that an offence under s3(3) could be committed by omission. The word "allows" included taking and omitting to take a positive step. In the present case the defendant had failed to take adequate precautions. Similar precautions had been taken in the past but they were obviously inadequate as the fastening was not good enough and the enclosure not secure.

### ***R v Pittwood*** (1902)

The defendant was employed as a gatekeeper at a railway crossing. One day he went for lunch leaving the gate open so that road traffic could cross the railway line. A hay cart crossing the line was hit by a train. One man was killed,

