

# Vocabulary Chapter 6.

1. crime \_\_\_\_\_  
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2. criminal law \_\_\_\_\_  
\_\_\_\_\_

3. quasi-criminal law \_\_\_\_\_  
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4. actus reus \_\_\_\_\_  
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5. mens rea \_\_\_\_\_  
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6. intent \_\_\_\_\_  
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7. general intent \_\_\_\_\_  
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8. specific intent \_\_\_\_\_  
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9. motive \_\_\_\_\_  
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10. knowledge \_\_\_\_\_  
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11. criminal negligence \_\_\_\_\_  
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12. recklessness \_\_\_\_\_  
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13. wilful blindness \_\_\_\_\_  
\_\_\_\_\_

14. regulatory laws \_\_\_\_\_

15. liability \_\_\_\_\_

16. strict liability offences \_\_\_\_\_

17. due diligence \_\_\_\_\_

18. absolute liability offences \_\_\_\_\_

19. perpetrator \_\_\_\_\_

20. parties to an offence \_\_\_\_\_

21. aiding \_\_\_\_\_

22. abetting \_\_\_\_\_

23. counselling \_\_\_\_\_

24. accessory after the fact \_\_\_\_\_

25. party to common intention \_\_\_\_\_

25. attempt \_\_\_\_\_

27. conspiracy \_\_\_\_\_

DISCUSS.

Unit  
2

CASE 3

**D.J.'s Dilemma**

*In this case, the defence presented was self-defence.*

McIntosh, a disc jockey, gave Hudson an amplifier and other equipment to repair. Over the next eight months, McIntosh made several attempts to retrieve his equipment, but Hudson avoided him. On one occasion, McIntosh, armed with a knife, confronted Hudson and told him he would "get him" if the equipment was not returned. On another occasion, Hudson fled through the rear exit of his home when McIntosh appeared at the front door.

On the day of the killing, McIntosh's girlfriend told him that she saw Hudson working outside. Armed with a kitchen knife, McIntosh approached Hudson and words were exchanged. According to McIntosh, Hudson pushed him, and a struggle ensued. Hudson picked up a dolly, raised it to head level, and came at McIntosh. McIntosh stabbed Hudson and fled the scene. He turned himself in to police later in the day. He entered a plea of not guilty, relying on the defence of self-defence, as provided in Section 34(2) of the *Criminal Code*, which states:

34. (2) Every one who is unlawfully assaulted and who causes death or grievous bodily harm in repelling the assault is justified if
- (a) he causes it under reasonable apprehension of death or grievous bodily harm from the violence with which the assault was originally made or with which the assailant pursues his purposes; and
  - (b) he believes, on reasonable grounds, that he cannot otherwise preserve himself from death or grievous bodily harm.

The Crown took the position that McIntosh could not rely on this section of the *Criminal Code* since he provoked the violence. The Crown believed that the words "without having provoked the assault" should be read into the section, since Section 34(1) of the *Criminal Code* states that "Every one who is unlawfully assaulted without having provoked the assault is justified in repelling force by force..."

1. Under what conditions, according to section 34(2), can self-defence be used as a defence to a criminal act?
2. Under what conditions, according to section 34(1), can self-defence be used as a defence to a criminal act?
3. If the court was to read "without having provoked the assault" into section 34(2) of the *Criminal Code*, would it be changing the intention of Parliament?
4. What could Parliament do if it was realized that the wording of the section was not really what was intended by the Parliament that enacted the law?

*R. v. McIntosh*  
(1995)

Supreme Court  
of Canada  
1 S.C.R. 686

## CASE 4

## Crazy in Love

*R. v. Rabey*  
(1981)

Supreme Court  
of Canada  
54 C.C.C. (2d) 1

The defence in this case, automatism, was unusual.

Rabey, a university student, was attracted to another student, Miss X. While looking through her textbook, he discovered a letter written by Miss X to another person. In the letter Miss X stated that she did not like Rabey and she preferred Gord. She was generally uncomplimentary when describing Rabey. The revelation was a considerable blow to Rabey. He kept the letter overnight and apparently brooded over the contents. The next day, Rabey met Miss X and briefly spoke to her. In the conversation, he asked her about Gord. Miss X replied that Gord was just a friend. Rabey then asked her what she thought of him. Miss X replied that she felt that Rabey was just a friend. At this point, Rabey struck Miss X with a rock and began choking her. He claimed that he was unable to control himself.

Rabey was charged with causing bodily harm with intent to wound. He offered a defence of automatism.

1. The definition of automatism is "a term used to describe unconscious, involuntary behaviour, the state of a person who, though capable of action, is not conscious of what he or she is doing." Does the action by Rabey appear to you to be "involuntary behaviour"? Explain.
2. In the trial, the letter was considered by the defence to be similar to a "psychological blow." Can you think of an example in your life or the lives of your family members where a "psychological blow," such as the death of a family member, has occurred? What was the feeling surrounding the person who received this psychological blow?
3. Examine a case of violent behaviour where one individual may have been provoked by another. For example, a woman comes home to find her husband in the arms of another woman. Would violence on the part of the wife be defensible, using the defence of automatism? Why or why not?
4. In this case, Rabey had not dated other girls for any length of time and had only a minimal amount of sexual experience. An introvert, he was infatuated with the attractive, outgoing girl. He had no previous mental problems. The first judge who allowed the defence of automatism felt that Rabey was so affected by this girl that he truly was temporarily insane. What is the difference between insanity and automatism? Give examples.
5. Our actions must be voluntary if we are to be charged and convicted of crimes. Examine the aspect of impaired consciousness and provide your perspective in the form of an essay. Look at factors, such as sleepwalking, the side effects of prescription drugs, the effects of using marijuana and other illegal drugs, the effects of drinking alcohol, having hypoglycemia, and being awakened in the night from a deep sleep, and classify them as to voluntary or involuntary actions.

Omit # 5