

# A-level Law Bridging Work

The **A-level Law Bridging Work** is in **two parts**:

**Part 1:** This set of tasks is based on **pre-reading on note-taking**, which is required for Bridging Work tasks for the following A-levels: Business, Economics, Law and Government and Politics.

**Part 2:** These are the **Law-specific note-taking tasks** and require you to take notes on a series of sources: a journal article; a video of a lecture at Harvard University; a case summary; and a BBC Radio 4 discussion programme.

Work for **both parts** should be submitted in the first **A-level Law lesson** in September 2017.

## Part 1 – Pre-reading and Tasks on Note-taking

Please read the following introduction to note-taking and respond to the tasks that follow in Part 1.

### An Introduction to the Skill of Note-taking: Taking Notes and Making Notes

During your A-level studies, and indeed your degree, you will be expected to make sense of the many hours of teaching/lecturing you receive, and any further reading/research that you have completed. The best and most efficient way of coping with so much information is to **take notes** at the time, from which further (and better) **notes can be made** when they are needed (such as for **revision**).

There are many methods of taking notes and you must choose the style that best suits you. In the lesson/lecture there are many styles of note-taking available to students and these will largely be determined by the format of the presentations you receive. Many A-level teachers provide handout material to assist your note-taking (**'guided notes method'**): such resources encourage active learning by providing a framework of headings for you to understand the main elements of the topic, whilst requiring you to fill in some of the details and examples as they are being explained.

In the absence of supporting materials, you need to develop a style that will best enable you to filter the most important points, explanations and examples from the session, whether that be in a **linear written form** (using shorthand, where necessary: see the following guide developed by the University of Portsmouth (<http://tinyurl.com/psu4cyt>) ) or through a **non-linear method**, perhaps including visual cues, such as mapping ideas as they develop. Whatever you choose, the method needs to capture the essential points of the lesson/lecture and filter out the digressions, anecdotes and asides that are not directly relevant to learning the topic.

### **Cornell method of note-taking**

This refers to a method popularised by Professor Walter Pauk at this American Ivy League university in the 1950s, which may be used for lessons/lectures but strikes me as especially useful for making sense of further reading and research, and building on earlier notes, to achieve a greater degree of understanding and synthesis of a topic. It involves **dividing the page into two columns**, with the one on the right much larger than the one on the left. The left is used for key words/terms/headings; the right is used for explanations and examples, in shorthand written form. The last few lines of the page are meant to be left blank for questions or for a short summary of the session – but I would reserve this for the end of your topic notes rather than for every page.

Notes should be frequently reviewed, added to and re-made in the important transformation process that has to take place during the revision process.

### **Note-taking: the top five tips**

- Remain active in lessons/lectures by taking detailed notes
- Adopt a style that best suits you – linear notes or non-linear mapping?
- Use shorthand where possible to increase the efficiency of your note-taking – and ensure that you capture everything you need
- Review, add to and re-make your notes
- Transform your notes for revision

## Introductory Tasks for Part 1

1. Find the note-taking resources on the P Drive (Student Drive), titled **P:\Bridging work for Business, Economics, Law and Gov Pol** and work through **ALL** the activities to get a feel for different note-taking methods. Start with the **Lesson 6 Powerpoint** and have a look at the brief notes, good notes and wordy notes to get **note-taking ideas**; and then try different styles of **note-taking** in response to the videos on Shakespeare and a range of other topics.
2. Visit the **University of Bradford's note-taking page** to find resources and specific guidance on the **Cornell method**:  
<http://www.bradford.ac.uk/academic-skills/writing/study/effective-learning/note/>  
Go back to one of the videos on the P Drive to practise this method.
3. Now complete the subject-specific Bridging Work tasks for A-level Law.

## Part 2 – Law-specific Note-taking Tasks

Building on the Part 1 tasks, please read, watch and listen to the following items and take notes in a variety of **linear** (e.g. Cornell) and **non-linear** (e.g. diagrams, maps, arrows, visual) styles.

### Note-taking Task 1: Article from a Journal

(A-level Law Review, Vol. 5, No. 1, Sept 2009, at p34)

## Landmarks of the common law

**Andrew Mitchell introduces an extraordinary nineteenth century case, which has had a lasting impact on English criminal law**

### *R v Dudley and Stephens (1884)*

#### **Facts**

Imagine the scene. In a storm on the high seas, almost two-thousand miles away from the Cape of Good Hope, the crew of an English yacht are forced to abandon their vessel and brave the waves in an open boat. There are four men in the boat: three 'able-bodied English seamen' by the names of Dudley, Stephens and Brooks; and a fourth, a cabin boy, of

about 17 years of age. Having endured 18 days very largely without food and water, Dudley and Stephens propose to Brooks that the boy might have to be sacrificed so that the others may live, but Brooks dissents. Dudley then suggests drawing lots to determine who should be sacrificed, but Brooks again refuses to get involved. The boy is not consulted. On the 20<sup>th</sup> day, Dudley and Stephens approach the boy, who is weak and helpless with famine, and kill him with a knife. The boat is rescued on the 24<sup>th</sup> day.

By this time, all three men have feasted on the boy, but are nevertheless found 'in the lowest state of prostration'. When they arrive in the port of Falmouth, and the events are recalled, Dudley and Stephens are committed for trial at Exeter on a charge of murder. They seek to argue a defence of necessity.

### **Held**

This remarkable case was determined, on appeal, by five senior judges. The judgement of Lord Coleridge, CJ, eloquently expresses the view of the court: that necessity could not be a defence to murder in these circumstances. He argued that to allow such a defence would mark a divorce of law from morality 'if the temptation to murder in this case were to be held by law to be an absolute defence of it.' He also pointed out that, as a matter of policy, it should not be for the strong to become the 'judges of necessity' over the weak: 'it is quite plain that such a principle once admitted might be made the legal cloak for unbridled passion and atrocious crime.' Dudley and Stephens were convicted and sentenced to death for murder, but the sentence was later commuted to just six months' imprisonment. If you wish to read more about this case, see A.W.B. Simpson's 'Cannibalism and the Common Law' (1984).

### **Impact**

Although differences of opinion exist about the precise *ratio decidendi* of the decision, it has been taken to mean that necessity is not a defence to murder (*R v Howe*, 1987). However, legal scholars have argued that the circumstances in *Dudley and Stephens* can be distinguished from those cases where the victim is selected by fate to die, rather than human decision. In *Re A* (2000), where an operation to separate conjoined twins would kill the weaker twin but provide the stronger one with the chance of life, Lord Justice Brooke identified the relevance of necessity: the

weaker twin was the victim of fate and could therefore be lawfully killed to save the other twin. The mountaineering film, 'Touching the Void' (2004, dir: Kevin Macdonald) explores a similar dilemma: can a mountaineer cut the rope of his falling companion to save himself? Likewise, can a lawfully government shoot down a hijacked plane, killing innocents and terrorists alike, to stop it hitting a public building? In both of these scenarios, *Dudley and Stephens* can arguably be distinguished and the reasoning of Lord Justice Brooke in *Re A* applied. Finally, what about the drawing of lots or the rolling of dice to determine victims: is that fate or human intervention? In *Dudley and Stephens* it was felt, *obiter*, that a US case where the drawing of lots provided legal justification for a killing in extreme circumstances (*US v Holmes*, 1843) should be disapproved. If you wish to apply your own legal reasoning to a similar situation, read Lon Fuller's hypothetical 'Case of the Speluncean Explorers' (1949: see <http://www.nullapoenade/stud/explorers.html>) and assess your own views against the judgements that Fuller provides.

## **Note-taking Task 2: Video of a lecture at Harvard University by Professor Michael Sandel**

Please make notes, in a form of your choice, on Sandel's Justice lecture, titled 'The Moral Side of Murder', which can be accessed via Youtube at: <https://www.youtube.com/watch?v=kBdfcR-8hEY>

## **Note-taking Task 3: Case summary from elawresources.co.uk**

Please make notes, in a form of your choice, on the following case study:

*Re A (conjoined twins)* [2001] 2 WLR 480

Mary and Jodie were conjoined twins joined at the pelvis. Jodie was the stronger of the two and capable of living independently. However, Mary was weaker, she was described as having a primitive brain and was completely dependent on Jodie for her survival. According to medical evidence, if the twins were left as they were, Mary would eventually be too much of a strain on Jodie and they would both die. If they operated to separate them, this would inevitably lead to the death of Mary, but Jodie would have a strong chance of living an independent life. The parents refused consent for the operation to separate them. The doctors applied to

the court for a declaration that it would be lawful and in the best interests of the children to operate. The High Court granted the declaration on the grounds that the operation would be akin to withdrawal of support ie an omission rather than a positive act and also the death of Mary, although inevitable, was not the primary purpose of the operation. The parents appealed to the Court of Appeal on the grounds that the learned judge erred in holding that the operation was (i) in Mary's best interest, (ii) that it was in Jodie's best interest, and (iii) that in any event it would be legal.

Held:

The appeal was dismissed. The operation could be lawfully carried out by the doctors.

LJ Robert Walker:

- (i) The feelings of the twins' parents are entitled to great respect, especially so far as they are based on religious convictions. But as the matter has been referred to the court the court cannot escape the responsibility of deciding the matter to the best of its judgment as to the twins' best interests.
- (ii) The judge erred in law in equating the proposed surgical operation with the discontinuance of medical treatment (as by disconnecting a heart-lung machine). Therefore the Court of Appeal must form its own view.
- (iii) Mary has a right to life, under the common law of England (based as it is on Judeo-Christian foundations) and under the European Convention on Human Rights. It would be unlawful to kill Mary intentionally, that is to undertake an operation with the primary purpose of killing her.
- (iv) But Jodie also has a right to life.
- (v) Every human being's right to life carries with it, as an intrinsic part of it, rights of bodily integrity and autonomy - the right to have one's own body whole and intact and (on reaching an age of understanding) to take decisions about one's own body.
- (vi) By a rare and tragic mischance, Mary and Jodie have both been deprived of the bodily integrity and autonomy which is their natural right. There is a strong presumption that an operation to separate them would be in the best interests of each of them.
- (vii) In this case the purpose of the operation would be to separate the twins and so give Jodie a reasonably good prospect of a long and reasonably normal life. Mary's death would not be the purpose of the operation, although it would be its inevitable consequence. The operation would give her, even in death, bodily integrity as a human being. She

would die, not because she was intentionally killed, but because her own body cannot sustain her life.

(viii) Continued life, whether long or short, would hold nothing for Mary except possible pain and discomfort, if indeed she can feel anything at all.

(ix) The proposed operation would therefore be in the best interests of each of the twins. The decision does not require the court to value one life above another.

(x) The proposed operation would not be unlawful. It would involve the positive act of invasive surgery and Mary's death would be foreseen as an inevitable consequence of an operation which is intended, and is necessary, to save Jodie's life. But Mary's death would not be the purpose or intention of the surgery, and she would die because tragically her body, on its own, is not and never has been viable.

I would therefore dismiss this appeal.

LJ Brooke:

If a sacrificial separation operation on conjoined twins were to be permitted in circumstances like these, there need be no room for the concern felt by Sir James Stephen that people would be too ready to avail themselves of exceptions to the law which they might suppose to apply to their cases (at the risk of other people's lives). Such an operation is, and is always likely to be, an exceptionally rare event, and because the medical literature shows that it is an operation to be avoided at all costs in the neonatal stage, there will be in practically every case the opportunity for the doctors to place the relevant facts before a court for approval (or otherwise) before the operation is attempted.

According to Sir James Stephen, there are three necessary requirements for the application of the doctrine of necessity:

(i) the act is needed to avoid inevitable and irreparable evil;

(ii) no more should be done than is reasonably necessary for the purpose to be achieved;

(iii) the evil inflicted must not be disproportionate to the evil avoided.

Given that the principles of modern family law point irresistibly to the conclusion that the interests of Jodie must be preferred to the conflicting interests of Mary, I consider that all three of these requirements are satisfied in this case.

**Note-taking Task 4: BBC Radio 4 programme, ‘The Moral Maze’, episode on ‘The Morality of Parental Rights’**

Please make notes, in a form of your choice, on this episode of ‘The Moral Maze’, which can be accessed via BBC iPlayer at <http://www.bbc.co.uk/programmes/b08xbjj6>

Thank you for completing the tasks for the A-level Law Bridging Work. We hope you have found a **note-taking style** that suits you and have enjoyed exploring some of the moral and legal dilemmas that are brought before the courts in English law.

I look forward to seeing your notes, with a variety of styles on display, in September.

Mr Mitchell