

**JOHN BYRNE & CO.'S
QUIZ BOOK
ON CRIMINAL
LAW AND PROCEDURE**

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John Byrne & Co.'s Quiz Book on Criminal Law and Procedure by Frederick S. Tyler

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FREDERICK S. TYLER

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JOHN BYRNE & CO.'S QUIZ BOOK c #

ON

CRIMINAL LAW AND PROCEDURE

Revised With Reference to

CLARK'S CRIMINAL LAW, 3RD ED.

BISHOP'S NEW CRIMINAL LAW.

CLARK & MARSHALL ON THE LAW OF CRIMES, 2ND ED.

CLARK'S CRIMINAL PROCEDURE.

BEALE'S CRIMINAL PLEADING AND PRACTICE.

^{Frederick}
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**QUESTIONS AND ANSWERS
ON
CRIMINAL LAW.**

1. Define a crime.

A. A crime is any act or omission prohibited by public law for the protection of the public, and made punishable by the State in a judicial proceeding in its own name. Clark & Marshall on the Law of Crimes, 2d Ed. 1.

A crime may be generally defined as the commission or omission of an act which the law forbids or commands under pain of a punishment to be imposed by the State in a proceeding in its own name. Clark's Crim. Law, 3d Ed. 1. For other definitions, see 1 Bish. New Crim. Law, 3d Ed. Sec. 32; May's Crim. Law 1; 4 Bl. Comm. 15.

An act for which the law awards punishment. Minor on The Law of Crimes 1.

2. What is the object of the punishment of crime?

A. To prevent injury to the public and not to redress the wrong done to individuals. See Clark's Crim. Law, 3d Ed. 2; Clark & Marshall, on The Law of Crimes, 2d Ed. 4.

3. Of what two elements does every crime consist?

A. An evil act, accompanied by an evil will, unless a statute has made it otherwise.

4. Distinguish between public wrongs and private wrongs.

A. A private wrong or "tort" is an infringement or privation of the civil rights which belong to individuals as such.

A public wrong or "crime" is a breach of the public rights and duties due to the community as a community. Clark & Marshall on The Law of Crimes, 2d Ed. 3.

Public wrongs or crimes are always infringements of public rights or duties owed to society in the aggregate while private wrongs or torts are merely the infringements of the private rights of individuals.

5. Into what three great classes are crimes divided?

A. Treasons, felonies, and misdemeanors. Clark & Marshall 2d Ed. 6; Clark's Crim. Law, 3d Ed. 41.

6. What distinguishes treasons and felonies from misdemeanors?

A. Generally the gravity of the offense is taken into consideration, the graver offenses being treated in their punishment with greater severity and being termed treasons or felonies, and those of less degree receiving less punishment and termed misdemeanors.

7. How was treason divided at common law?

A. Into two classes, high treason and petit treason.

8. Define each.

A. High treason was, "The compassing of the King's death, and aiding and comforting his enemies, the forging or counterfeiting of his coin, the counterfeiting of the privy seal or the killing of the chancellor or either of the King's justices."

"Petit treason was where a wife murdered her husband, an ecclesiastic his lord or ordinary, or a servant his master." Clark & Marshall, *The Law of Crimes*, 2d Ed. 7.

9. Define Treason against the United States.

A. "Treason against the United States shall consist only in levying war against them or in adhering to their enemies, giving them aid and comfort." U. S. Constitution, Art. 3 Sec. 3; Clark's *Crim. Law*, 3d Ed. 469.

10. How is treason against the United States punished?

A. By Act of Congress. See Rev. St. U. S. 1878, Sec. 5331.

11. What is necessary in order to convict a person of treason against the United States?

A. "No person shall be convicted of treason unless on the Testimony of two witnesses to the same overt act, or upon confession in open Court." U. S. Constitution, Art. 3, Sec. 3.

12. Is Treason a felony?

A. Yes; but all felonies are not treasons.

13. What is misprision?

A. It is generally understood to be all such high offenses as are under the degree of capital but nearly bordering thereon. High misdemeanor better conveys this meaning, while the precision of our language is promoted by restricting misprision to neglect, and such, it is believed, is the better meaning. There are two sorts of misprisions,—positive and negative.

14. Distinguish between positive and negative misprisions?

A. A positive misprision is the actual doing of an act, for every treason or felony committed is also a misprision; the negative misprision is the mere knowledge and concealment of treason, or felony; if a party have knowledge and assent to the commission of crime, he will be either a principal or an accessory.

15. Can a man be convicted of treason by a State for acts which would not be treason against the United States?

A. Yes; for some of the States have made no change in the number of witnesses necessary for a conviction, and also, each State is a sovereignty in itself, against which a treason may be committed.

16. Is the purchase of supplies for a rebel army treason?

A. If a citizen of the United States supplies the enemy's forces with money, arms, or intelligence, although such money, arms, or intelligence be intercepted and never reach them, this is a case of adhering to the enemies of the United States, giving them aid and comfort. *U. S. vs. Hodges*, 2 Dall. 87.

17. Is the raising of an army with an intent to overthrow the Government, but without any other act treason.

A. To conspire to levy war and to actually levy war are distinct offenses. The assemblage of a body of men for a purpose treasonable in itself, but no act of actual war being committed, is a mere conspiracy. *U. S. vs. Burr*, 4 Cranch 469.

18. Is Military law part of the Criminal law?

A. Strictly speaking no; in a certain sense it is sometimes so regarded but properly it is not. See *Bishop's New Crim. Law*, Vol. 1, Chapter 4.

19. What is a felony?

A. At common law it was such an offense as

worked a forfeiture of land and goods or capital punishment or both; but at the present day it is considered to be an offense which may be punishable by confinement in the penitentiary, or by death, although some statutory misdemeanors may result in penitentiary sentence. Clark & Marshall, on *The Law of Crimes*, 2d Ed. 8; Clark's *Crim. Law* 3d Ed. 42.

20. Does the word "crime" have a technical meaning in English Law?

A. The words High Crimes and misdemeanors are frequently used in prosecutions merely to give greater solemnity to the charge. From a moral standpoint even a refusal to pay a debt is a crime. It has no technical meaning.

21. What is the criminal law?

A. The criminal law is that department of the law of the courts which concerns crime. 1 Bish. *New Crim. Law*, Sec. 32.

22. Where an act is both a crime and a tort, may the person be proceeded against by the State and by the person injured?

A. Yes; the two proceedings or actions are distinct and neither is a bar to the other; in cases of misdemeanors the civil action may be brought before the institution of a criminal prosecution, and carried on at the same time; but not so in the case of felonies. Clark's *Crim. Law* 3d Ed. 8