

7. Alfred was in a supermarket when he saw Bert. Alfred was still annoyed with Bert because of a recent argument between them. Alfred suddenly picked up a can of beans from a shelf and threw it towards Bert. Alfred's aim was poor. The can missed Bert and hit Charlie, another shopper.

Using the rules on transferred malice, suggest why, in law, Alfred may be found to have the mens rea of an offence against Charlie. [5 marks]

MODEL ANSWER

The doctrine of transferred malice applies here where Alfred's mens rea of an offence against the person, can be transferred from the intended victim Bert to the actual victim Charlie. This was illustrated in the cases of **Latimer** where defendant held liable when belt ricochet and hit another victim. However, in **Pembliton** the conviction was quashed as the defendant mens rea was against a person whilst the actual offence committed was an offence against property. The courts held they could not transfer mens rea as they are of entirely different offences. Consequently, in this case Alfred will be found to have the mens rea of an offence against Charlie as court can transfer his original mens rea for Bert to Charlie as it is the mens rea of same offence committed.