



Contents

<i>Preface</i>	<i>xix</i>
<i>Acknowledgments</i>	<i>xxvii</i>
Part I ■ Preliminary	1
Chapter 1. Purposes of Punishment (N.Y. Penal Law §1.05)	3
<i>Richardson v. State</i>	3
<i>People v. Mooney</i>	6
<i>People v. Payne</i>	8
Notes	10
Chapter 2. Legality Principle	13
A. Specificity	14
<i>People v. Bright</i>	14
<i>People v. Nelson</i>	18
B. Lenity	19
<i>People v. Buscemi</i>	19
C. Prospectivity	21
<i>People v. Behlog</i>	21
Notes	23
Chapter 3. Jurisdiction (N.Y. Crim. Proc. Law art. 20)	27
<i>People v. Stokes</i>	27
<i>People v. Carvajal</i>	30
<i>In re Taub</i>	33
Notes	37
Chapter 4. Analysis of Criminal Liability	41
A. Three Levels of Liability	42
	xi

B.	An Application: <i>The Queen v. Dudley and Stephens</i>	43
	<i>The Queen v. Dudley and Stephens</i>	44
	Notes	46
Part II ■ General Part		51
Chapter 5.	<i>Actus Reus</i>	53
A.	Actness (N.Y. Penal Law §§15.00(1)-(5), 15.10)	53
	<i>People v. Davis</i>	53
B.	Voluntariness (N.Y. Penal Law §§15.00(1)-(5), 15.10)	56
	<i>People v. Decina</i>	56
	<i>People v. Shaughnessy</i>	61
	Notes	62
C.	Omission (N.Y. Penal Law §§15.00(3)-(5), 15.10)	63
	<i>People v. Lansing Terrace Apartments</i>	63
	<i>People v. Robbins</i>	65
	<i>People v. Sanford</i>	67
	Notes	68
D.	Possession (N.Y. Penal Law §§10.00(8), 15.00(2))	69
1.	Actual and Constructive Possession	70
	<i>People v. Rivera</i>	70
	<i>People v. Manini</i>	71
	Notes	73
2.	Presumptions	74
	<i>People v. Leyva</i>	74
	<i>People v. Heizman</i>	77
	Notes	77
3.	Exemptions and Defenses	79
	<i>People v. Desthers</i>	79
	<i>People v. Almodovar</i>	82
	<i>People v. E.C.</i>	83
	Notes	85
Chapter 6.	<i>Mens Rea</i> (N.Y. Penal Law §§15.00(6), 15.05, art. 125)	87
A.	Voluntariness and Culpable Mental States	88
	<i>In the Matter of Ronnie L.</i>	88
	Notes	90
B.	The Scheme of Mental States	90
C.	Intention and Knowledge	93
	<i>People v. Steinburg</i>	93
	Notes	94
D.	Recklessness and Criminal Negligence	96
	<i>People v. Strong</i>	96
	<i>People v. Woodruff</i>	99
	Notes	100
E.	Wilfulness	100
	<i>People v. Coe</i>	100
	Notes	102
F.	Statutory Interpretation	102
	<i>People v. Ryan</i>	102

	<i>People v. M&H Used Auto Parts & Cars, Inc.</i>	104
	Notes	107
Chapter 7.	Causation	109
	<i>People v. Kibbe</i>	109
	<i>People v. Warner-Lambert</i>	112
	<i>People v. Kern</i>	113
	<i>People v. Stewart</i>	115
	<i>People v. Griffin</i>	118
	Notes	120
Chapter 8.	Liability for Another’s Conduct (N.Y. Penal Law art. 20)	123
	A. Complicity	124
	<i>People v. Kaplan</i>	124
	<i>People v. Abbott</i>	126
	<i>People v. Russell</i>	128
	<i>People v. Manini</i>	130
	Notes	131
	B. Corporate Criminality	133
	<i>People v. Warner-Lambert</i>	133
	<i>People v. Congregational Khal Chaisidei Skwere, Inc.</i>	135
	Notes	136
Chapter 9.	Mistake and Intoxication	137
	A. Mistake (N.Y. Penal Law §15.20)	138
	1. Mistake of Fact	138
	<i>People v. Gudz</i>	138
	2. Mistake of Law	140
	<i>People v. Studifin</i>	140
	<i>People v. Marrero</i>	144
	Notes	155
	B. Intoxication (N.Y. Penal Law §§15.05(3), 15.25)	156
	<i>People v. Orr</i>	156
	<i>People v. Hill</i>	156
	Notes	157
Chapter 10.	Justification (N.Y. Penal Law art. 35)	159
	A. Defenses (N.Y. Penal Law art. 25)	159
	B. Necessity (N.Y. Penal Law §35.05(2))	160
	<i>People v. Brown</i>	160
	<i>People v. Craig</i>	164
	<i>People v. Maher</i>	167
	Notes	168
	C. Self-Defense (N.Y. Penal Law §§35.15-.25)	169
	1. Introduction	169
	<i>People v. McManus</i>	169
	Notes	171
	2. Reasonableness	173
	<i>People v. Torres</i>	173
	<i>People v. Goetz</i>	176
	<i>People v. Douglas</i>	181
	Notes	183

3.	“Initial Aggressors,” Retreat, and Deadly Physical Force	184
	<i>People v. Petty</i>	184
	<i>People v. Jones</i>	186
	<i>People v. Bradley</i>	188
	Notes	189
4.	Possession	189
	<i>People v. Pons</i>	190
	<i>People v. Jones</i>	191
	Notes	194
5.	Dwelling-Defense	194
	<i>People v. Petronio</i>	194
	Notes	196
D.	Law Enforcement (N.Y. Penal Law §35.30)	197
	<i>People v. Peña</i>	197
	Notes	200
E.	Consent	201
	<i>People v. Schacker</i>	202
	Notes	203
Chapter 11.	Excuse (N.Y. Penal Law arts. 30, 40)	205
A.	Duress (N.Y. Penal Law §40.00)	205
	<i>People v. Brown</i>	206
	<i>People v. Jenkins</i>	210
	Notes	210
B.	Entrapment (N.Y. Penal Law §40.05)	211
	<i>People v. Calvano</i>	211
	<i>People v. Butts</i>	213
	<i>People v. Degina</i>	214
	<i>People v. Isaacson</i>	216
	Notes	220
C.	Insanity (N.Y. Penal Law §40.15)	222
	<i>People v. Schmidt</i>	223
	<i>People v. Kohl</i>	225
	Notes	228
D.	Diminished Capacity	232
	<i>People v. Westergard</i>	232
	Notes	234
Part III ■ Special Part		237
Chapter 12.	Anticipatory Offenses (N.Y. Penal Law tit. G)	239
A.	Attempt (N.Y. Penal Law art. 110)	239
1.	Preparation vs. Attempt (N.Y. Penal Law §110.00)	240
	<i>People v. Mahboubian</i>	240
2.	Impossibility	248
a.	Subjective Impossibility (Mistake) (N.Y. Penal Law §110.00)	249
	<i>People v. Dlugash</i>	249

b.	Objective Impossibility (Nonexistent Offense)	251
	<i>People v. Carrabotta</i>	251
	<i>People v. Campbell</i>	253
	<i>People v. Saunders</i>	255
	<i>People v. Terry</i>	257
3.	Renunciation (N.Y. Penal Law §40.10(3) & (5))	257
	<i>People v. Taylor</i>	257
	<i>Rodriguez v. Smith</i>	260
	Notes	261
B.	Conspiracy (N.Y. Penal Law arts. 105, 460)	262
	<i>Pinkerton v. United States</i>	262
	<i>People v. McGee</i>	263
	<i>People v. Berkowitz</i>	265
	<i>People v. Washington</i>	268
	<i>People v. Sisselman</i>	270
	Notes	271
C.	Facilitation (N.Y. Penal Law art. 115)	273
	<i>People v. Gordon</i>	273
	Notes	275
D.	Solicitation (N.Y. Penal Law art. 100)	276
	<i>People v. Lubow</i>	276
	<i>People v. Allen</i>	278
	Notes	280
Chapter 13.	Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and Intimidation (N.Y. Penal Law tit. H)	281
A.	Assault and Menacing (N.Y. Penal Law art. 120)	281
	<i>In re Philip A.</i>	282
	<i>People v. Owusu</i>	283
	<i>People v. Fatal</i>	285
	<i>People v. Stephens</i>	288
B.	Reckless Endangerment (N.Y. Penal Law §§120.20-25)	289
	<i>People v. Rodriguez</i>	289
	Notes	290
C.	Stalking (N.Y. Penal Law §§120.45-60)	291
	<i>People v. Stuart</i>	291
	Notes	296
D.	Homicide (N.Y. Penal Law art. 125)	297
1.	Murder (N.Y. Penal Law §§125.25-.27)	297
a.	First-Degree (Capital) Murder	297
	<i>People v. Cahill</i>	297
	Notes	301
b.	Intentional and Depraved Indifference Murder	302
	<i>People v. Sanchez</i>	302
	<i>People v. Payne</i>	306
	<i>People v. Feingold</i>	309
	<i>People v. Lazartes</i>	315
	Notes	317
c.	Felony Murder	318
	<i>People v. Gladman</i>	318

	<i>People v. Michalow</i>	322
	<i>People v. Miller</i>	323
	<i>People v. Ingram</i>	324
	<i>People v. Hernandez</i>	325
	Notes	329
2.	Voluntary Manslaughter (Extreme Emotional Disturbance) (N.Y. Penal Law §§125.20(2), .25(1)(a), .27(2)(a))	333
	<i>People v. Patterson</i>	334
	<i>People v. Casassa</i>	336
	<i>People v. White</i>	337
	<i>People v. Fardan</i>	339
	<i>People v. Charles</i>	341
	Notes	342
3.	Involuntary Manslaughter (N.Y. Penal Law §§125.12-20) and Negligent Homicide (N.Y. Penal Law §125.10)	346
	<i>People v. Baker</i>	347
	<i>People v. Beiter</i>	350
	<i>People v. Boutin</i>	354
	Notes	355
4.	Assisted Suicide (N.Y. Penal Law §125.15(3))	357
	<i>People v. Duffy</i>	357
	Notes	359
5.	“Death”	359
	<i>People v. Eulo</i>	360
	Notes	365
E.	Sex Offenses (N.Y. Penal Law art. 130)	365
1.	Rape and Other Forms of Criminal Sexual Intercourse (N.Y. Penal Law §§130.20-.50)	366
a.	Consent and Forcible Compulsion	366
	<i>People v. Williams</i>	366
	<i>People v. Newton</i>	369
	<i>People v. Thompson</i>	371
	<i>People v. Evans</i>	374
	<i>People v. Hough</i>	378
b.	Rape Shield Law	379
	<i>People v. Jovanovic</i>	380
2.	Forcible Touching (N.Y. Penal Law §130.52)	388
	<i>People v. Serrano</i>	388
	Notes	390
3.	Sex Offender Registration (N.Y. Corr. Law art. 6-C)	392
	<i>People v. Wiggins</i>	392
	Sex Offender Risk Level Determination	399
	Community Notification	400
	New York State Sex Offender Registry: Registrable Offenses	400
	Notes	402
F.	Kidnapping and Coercion (N.Y. Penal Law art. 135)	402
1.	Kidnapping	403

	<i>People v. Cassidy</i>	403
2.	Coercion	405
	<i>People v. Eboli</i>	405
	Notes	409
Chapter 14.	Offenses Involving Damage to and Intrusion upon Property (N.Y. Penal Law tit. I)	411
A.	Burglary (N.Y. Penal Law §§140.20-.30)	411
	<i>People v. Mackey</i>	411
	<i>People v. Mahboubian</i>	414
	<i>People v. Pangburn</i>	415
	<i>People v. Gaines</i>	416
	<i>People v. Green</i>	418
	<i>People v. Graves</i>	419
	<i>People v. Scott</i>	423
	<i>People v. McCargo</i>	425
	<i>People v. Barney</i>	425
	Notes	427
B.	Arson (N.Y. Penal Law art. 150)	429
	<i>People v. Fox</i>	429
	<i>People v. Gigliuto</i>	430
	Notes	431
Chapter 15.	Offenses Involving Theft (N.Y. Penal Law tit. J)	433
A.	Larceny (N.Y. Penal Law art. 155)	433
	<i>People v. Olivo</i>	433
	<i>People v. La Rock</i>	437
	<i>People v. Norman</i>	437
	<i>People v. Foster</i>	443
	<i>People v. Zinke</i>	448
	<i>People v. Chesler</i>	450
	Notes	452
B.	Robbery (N.Y. Penal Law art. 160)	456
	<i>People v. Reid</i>	456
	<i>People v. Green</i>	457
	Notes	460
Chapter 16.	Offenses Involving Fraud (N.Y. Penal Law tit. K)	461
A.	Forgery (N.Y. Penal Law art. 170)	461
	<i>People v. Cunningham</i>	461
	Notes	464
B.	Commercial Bribery (N.Y. Penal Law §§180.00-.08) and Scheme to Defraud (N.Y. Penal Law §§190.60-.70)	465
	<i>People v. Wolf</i>	465
	<i>People v. Taylor</i>	469
	Notes	470
Chapter 17.	Offenses Against Public Administration (N.Y. Penal Law tit. L)	471
A.	Official Misconduct (N.Y. Penal Law §195.00)	472
	<i>People v. Feerick</i>	472
	Notes	475
B.	Obstructing Governmental Administration (N.Y. Penal Law §§195.05-.08) and Resisting Arrest (N.Y. Penal Law §205.30)	475

	<i>People v. Covington</i>	475
	<i>People v. Alston</i>	478
	Notes	479
	C. Contempt (N.Y. Penal Law §§215.50-.54; N.Y. Judiciary Law art. 19)	479
	<i>People v. Boston</i>	479
	Notes	483
Chapter 18.	Offenses Against Public Health and Morals (N.Y. Penal Law tit. M)	485
	A. Controlled Substances Offenses (N.Y. Penal Law art. 220)	485
	<i>People v. Guzman</i>	486
	<i>People v. Roche</i>	487
	<i>People v. Sierra</i>	493
	Notes	495
	B. Gambling (N.Y. Penal Law art. 225)	497
	<i>People v. Denson</i>	497
	Notes	499
Chapter 19.	Offenses Against Public Order, Public Sensibilities, and the Right to Privacy (N.Y. Penal Law tit. N)	501
	A. Disorderly Conduct (N.Y. Penal Law §240.20)	501
	<i>People v. Munafu</i>	501
	<i>People v. Griswald</i>	503
	Notes	505
	B. Harassment (N.Y. Penal Law §§240.25-.32)	505
	<i>People v. Sirlin</i>	505
	<i>People v. Bethea</i>	509
	<i>People v. Furey</i>	512
	Notes	513
Chapter 20.	Organized Crime Control Act (OCCA) (N.Y. Penal Law tit. X)	515
	<i>People v. Capaldo</i>	515
	Notes	518
Chapter 21.	Traffic Offenses (N.Y. Veh. & Traf. Law)	521
	A. Driving While Intoxicated (N.Y. Veh. & Traf. Law §§1192-1193)	521
	<i>People v. O'Connor</i>	521
	<i>People v. Prescott</i>	523
	<i>People v. Kahn</i>	527
	Notes	529
	B. Reckless Driving (N.Y. Veh. & Traf. Law §1212)	530
	<i>In the Matter of Vincent H.</i>	530
	Notes	532
Chapter 22.	Offenses Against Animals (N.Y. Agric. & Mkts. Law)	533
	<i>People v. Garcia</i>	533
	Notes	536
Appendix	Criminal Sentencing in New York State: A Historical Overview	537
	<i>Table of Cases</i>	551
	<i>Index</i>	555