



INTRODUCTION TO ENGLISH LAW

Cours : C. Bader-Keller

Année universitaire 2009-2010
Licence Droit et Études Européennes,
Deuxième année - Semestre 3

SESSION de JANVIER 2010

Documents autorisés : Aucun
Durée de l'épreuve : une heure

NOM :

Prénom :

Please answer the two questions below:

1. Short essay question

In the space provided below, please explain the jury selection process and whether the use of a jury is appropriate in a civil case.

2. Short problem question

In the space provided below, please answer the following question.

Kurt, who suffers from schizophrenia, goes home one day to find out that Barbie has spent all the money he had been saving for the past 10 years on a new sport car. He is so upset that he runs to kitchen, grabs a knife and stabs her in the chest. She is taken to hospital, but refuses the blood transfusion. She dies.

You are acting for the prosecution, please consider the criminal liability of Kurt in the space provided below.

UNIVERSITE de STRASBOURG
FACULTE DE DROIT, DE SCIENCES POLITIQUES ET DE GESTION
DROIT PRIVE (cours en langue anglaise)

Cours : C. Bader-Keller

Documents autorisés : Aucun

Durée de l'épreuve : 1 heure

JANVIER 2012

SUJET SUR 5 PAGES

Les 2 parties doivent être traitées.

NE PAS OUBLIER D'INDIQUER VOS NOMS ET PRENOMS SUR CHACUNE DES FEUILLES.

Part 1 : (14 points)

Noircissez la case correspondant à la bonne réponse. A titre informatif, veuillez noter que pour chaque question, une seule réponse est possible.

Barème : Réponse juste = + 1 pt / Absence de réponse = -1pt / Réponse fausse = 0pt

N°	Questions	Propositions de réponses
1	Which route does a contract case follow?	<p>A : it starts in the magistrates' court, then goes to the county court, then moves up to the court of appeal civil division, and then the Supreme Court</p> <p>B : it may start in the county court, then goes to the High Court (either Queen's Bench or Chancery Division) then goes to the Court of Appeal (Civil Division) and then Supreme Court</p> <p>C : it may start in the county court, then goes to the High Court (either Queen's Bench or Chancery Division) then goes to the Court of Appeal (Civil Division), then the Supreme Court and back to the Court of Appeal (civil division)</p> <p>D : it starts in the magistrates' court, then goes to the High Court (Queen's bench division), goes to the Court of Appeal, then goes to the Supreme Court and in certain circumstances goes back to the Court of Appeal (civil division)</p> <p>E : none of the above</p>
2	Which <u>current</u> route does a murder case follow?	<p>A : it starts in the magistrates' court, then the case is being sent for trial to the Crown Court, then it may go to the Court of Appeal (Criminal Division), then goes to the House of Lords and eventually goes back to the Court of Appeal for a re-trial</p> <p>B : it starts in the county court, then the case is being sent for trial to the Crown Court, then it may go to the Court of Appeal (Criminal Division), then goes to the House of Lords and eventually if decided so by the House of Lords, it goes back to the appeal level at the Court of Appeal</p> <p>C : it starts in the magistrates' court, then the case is being sent for trial to the Crown Court, then it may go to the Court of Appeal (Criminal Division) and it may then be heard before the House of Lords</p> <p>D : it starts in the magistrates' court, then the case is being sent for trial to the High Court (Crown Court Division) and it may go to the Court of Appeal (Criminal Division) and it may then be heard before the Supreme Court</p> <p>E : it starts in the magistrates' court, then the case is being sent for trial to the Crown Court, and it may then be heard before the Court of Appeal (Criminal Division), then it may be heard before the Supreme Court.</p>

3	What does “vetting” mean?	<p>A: it is the process whereby those who do not meet the legal qualification cannot be selected by the judge to sit as members of the jury</p> <p>B: it is the process whereby those who do not meet the legal qualification cannot be selected by the court to sit as members of the jury</p> <p>C: it is the process whereby the prosecution scrutinize the panel</p> <p>D: it is the process whereby the judge with the help of the bailiff scrutinize the panel</p>
4	In context of the jury selection process, what does “excusal by the judge” mean and include?	<p>A: under the Juries Act, the judge may discharge from service any juror about whom there is a doubt as to his capacity to act effectively as a juror</p> <p>B: under the Juries Act, the judge may discharge from service jurors about whom there is a doubt beyond reasonable doubt as to his physical capacity only to act as a juror</p> <p>C: under the Juries Act, the judge may discharge from service anyone he is convinced will be disloyal to the bailiff</p> <p>D: none of the above</p>
5	How many jurors sit as members of the jury in court?	<p>A: 10</p> <p>B: 12</p> <p>C: 10 + 2 for replacement</p> <p>D: 9 + 2 for replacement</p>
6	What is a “Private Members Bill”?	<p>A: bills introduced by members of either House (whether government supporters or not)</p> <p>B: bills that do not alter the law but confer special powers</p> <p>C: bills that only alter the law in England and Wales but not Scotland</p> <p>D: none of the above</p>
7	What is the mischief rule?	<p>A: under this rule, the judge will look at the Act of Parliament to see what was its purpose and what mischief in the common law it was designed to prevent</p> <p>B: the rule means that where a statute has been passed to remedy a weakness in the law, the interpretation which will correct that weakness is the one to be adopted</p> <p>C: the rules means that where a stature has been passed to remedy a failure in the law, the interpretation which will amend that failure is only one of the possible answers the judge can give to the case</p> <p>D: answers A and B are correct</p> <p>E: answers A and C are correct</p>
8	What was decided in R v Allen (1872)?	<p>A: the natural court rule should apply and the words “shall give birth” meant “be capable of giving birth”</p> <p>B: the golden rule had to apply and the words in the section “shall marry” means “going through the ceremony”</p> <p>C: the sheriff rule applied and the words in the section “having 5 o’clock tea” meant “preparing dinner for your wife”</p> <p>D: the literal rule had to apply and the words in the section “should inherit” meant “should inherit intestate”</p>

9	In the context of judicial precedent, what does “applied” mean?	<p>A: it means that the court has agreed with the decision of a lower court in respect of the same case</p> <p>B: it means that a court has regarded itself as bound by an earlier decision, and has therefore employed the same reasoning in the given case.</p> <p>C: it means that a higher court states that another case before a lower court was correctly decided</p> <p>D: all of the above</p>
10	In the context of judicial precedent, what does “reversed” mean?	<p>A: it means that a court is reluctant to apply a case, therefore it finds some ground for saying it is different as the result of which the case will not be followed in the given case.</p> <p>B: it means a court has rejected and invalidated an earlier decision of a court of lower status to itself</p> <p>C: it means that the higher court has decided that the lower court in the same case came to the wrong decision.</p> <p>D: none of the above</p>
11	In which case was it decided that a man might incur criminal liability from a duty arising out of a contract	<p>A: Attorney – General’s Reference (No 4 of 1980)</p> <p>B: R v Pittwood</p> <p>C: R v Miller</p> <p>D: R v Maloney</p>
12	In which case was it decided that for a conviction of murder, D must have had the intention to kill or cause really serious injury ?	<p>A: Attorney – General’s Reference (No 4 of 1980)</p> <p>B: R v Pittwood</p> <p>C: R v Miller</p> <p>D: R v Maloney</p>
13	In which case was it decided that provided that the jury was satisfied that one of the actions did cause the death, even though it was impossible to say which of the defendant’s acts inflicted death, that was sufficient for a conviction?	<p>A: Attorney – General’s Reference (No 4 of 1980)</p> <p>B: R v Pittwood</p> <p>C: R v Miller</p> <p>D: R v Maloney</p>
14	<p>Please identify the missing word:</p> <p>“where on a charge of murder there is evidence on which the jury can find that the person charged was [*] (whether by things done or things said or by both together) to lose his self control, the question whether the [*] was enough to make a reasonable man do as he did shall be left to be determined by the jury, and in determining that question the jury shall take into account everything both done and said according to the effect which, in their opinion, it would have on a reasonable man.”</p>	<p>A: accused/accusation</p> <p>B: incited/incitor</p> <p>C: provoked/provocation</p> <p>D: aggravated/aggravation</p> <p>E: insaned/insanation</p>

LAST NAME: _____ FIRST NAME (Prénom): _____

Please circle the situation that applies to you: L2 AES Erasmus

Part 2: (6 points)

Written exam instructions:

1. Please use your best handwriting and present your work accordingly. No point will be awarded if the answers are difficult to read or understand.
2. Please **do not exceed the space provided for your answers**. If you do so, be aware that the marker will not read the extra work.
3. To secure a high mark, please state all relevant case law, statutory provisions and legal tests.

LAST NAME: _____ **FIRST NAME (Prénom):** _____

Please circle the situation that applies to you: L2 AES Erasmus

James is very happy as he has just been informed that he has been awarded a place at the very prestigious OxBridge University. It was hard work to get in, especially considering the fact that he suffers from a physical disability (he lost his right leg in a skiing accident) and serious depression. OxBridge is a very expensive and but his dad promised to pay all fees if he secured a place at a top university. Unfortunately, his dad's reaction is unexpected. He said: "when I said "a prestigious university" I meant Sandhurst Academy." James protested saying that "Sandhurst is a military school, where he would never have been able to become a good officer because of his physical condition". His dad yelled at him "you are just a useless cripple – I am not paying your tuition fees."

James is extremely hurt and is filled with hatred against his father. He has enough of his father's insults. He cannot afford to pay the fees alone and he desperately needs his dad's money. He knows that his dad is wealthy and that as his only child he will inherit everything. He decides that his academic future is more important than his dad's life. The following week, at dinner time, he poured his dad a drink with poison. A few minutes later, the dad collapsed on the floor. The coroner delivered a statement saying that the father died as a result of drinking a lethal poison. All the evidence found accused James.

You are acting for the prosecution, please advise.

Which charge(s) could be retained against James?

Does he have any defence?

Assuming that James is convicted of the charge(s) he is accused of, will he be able to inherit from his dad?

UNIVERSITÉ DE STRASBOURG-ROBERT SCHUMAN

Droit Privé- Cours en Langue Anglaise L2 S3

Private Law- Course in the English Language

Instructor : H. Victor Condé

Session Janvier 2013

Épreuve Écrite

Written Examination

YOU WILL HAVE ONE HOUR TO COMPLETE THIS TEST.

CAVEAT: ALWAYS KEEP IN MIND WHETHER THE QUESTION CONCERNS THE
COMMON LAW TRADITION OR THE CONTINENTAL CIVIL LAW TRADITION OR BOTH

Part I

True (T) or False (F) : Answer the following questions by circling either T for True, or F for false

1. Administrative Law is part of Private Law in the Civil Law Tradition. T F
2. In the Common Law legal system doctrine of *stare decisis* all judicial decisions (Judgments) in similar fact situations must be followed. T F
3. In the Common Law legal system Criminal Law is part of the field of Private Law. T F
4. The scope of coverage of Private Law in the Civil Law tradition is more broad than in the Common Law System. T F
5. In the Common Law system contractual matters between government and individuals are governed by private law and not public law. T F
6. In the Common Law system judges are bound to follow "persuasive" precedent decisions unless he/ she is persuaded otherwise. T F
7. In the Civil Law tradition judicial decisions are not considered sources of law. T F
8. The writings of the most qualified legal scholars are a source of legal norms. T F

Private Law

Written Examination

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9. At the international law level, customary legal norms arise where the following two elements are established: consistent state practice over the course of time and *opinio juris*, belief by the states that the practice is legally required.

T F

10. General Principles of Law do not apply to the field of Private Law

T F

11. Under the general principle of subsidiarity, Private Law is subsidiary to Private International Law.

T F

12. When a proposed law is submitted to the UK Parliament it is known as a bill.

T F

13. The legislative activity of the European Union does not affect the area of Private Law.

T F

14. Judicial decisions have the same value as precedents in both the Common Law and Continental Civil Law systems.

T F

15. The right to trial by jury does not apply to cases involving Private Law.

T F

Part II

Multiple Choice: Write the letter of the correct answer on the answer line (Answer: _____)

16. In the common law of contracts the main element in the creation of a legally binding contract is:

- a. Conditions
- b. Understanding
- c. Consideration

Answer: _____

17. Which of the following is not an element in the common law private law tort of negligence?

- a. Standard of Care
- b. Mens Rea
- c. Breach of Duty

Answer: _____

18. Which of the following treaties is a Private Law treaty?

- a. Convention on the Civil Aspects of International Child Abduction
- b. The Genocide Convention
- c. The European Convention on Human Rights

Answer: _____

19. In the legislative system of the UK the final step in a bill becoming a law, a statute, is which of the following?

- a. Concurrence of the House of Lords and House of Commons
- b. Signature of the Prime Minister
- c. Assent of the Queen

Answer: _____

20. Which of the following is not involved in the field of Private International Law?

- a. UNCITRAL
- b. UNIDROIT
- c. UNESCO

Answer: _____

21. The administrative process of taking various statutes and putting them in a logical order and in one sole comprehensive source is known as :

- a. Rationalization
- b. Implementation
- c. Codification

Answer: _____

22. In the European Union the Private Law of member states is affected by the following legal sources:

- a. The EU Charter of Fundamental Rights
- b. Various EU Regulations on Private Law
- c. Both a and b

Answer: _____

23. Which of the following areas of law is not within the field of Private Law

- a. Business and Law
- b. Family Law
- c. Neither a nor b

Answer: _____

24. The primary goal of having an effective system of private law in a state is: Law is submitted

- a. Promoting economic development
- b. Preventing crime
- c. Promoting social order

Answer: _____

25. Which of the following is not a General Principal of Law:

- a. Proportionality
- b. Effectiveness
- c. Exhaustion of domestic remedies

Answer: _____

26. The most widely used rule of interpretation of a statute in the Common Law legal system is:

- a. the Mischief Rule
- b. the Original Intent Rule
- c. The Golden Rule