Midterm practice questions

With answers

Multiple Choice

1. What does it mean when people say that common law is generally uncodified?
   a) There are no written statutes in common law countries. Instead, all law comes from precedents.
   b) There are written statutes, but they do not cover every area of law and they are often not organized by subject. Precedents are also a very important source of law.
   c) Because there are no written statutes in common law countries, members of the jury decide a defendant’s sentence based on precedent.
   d) In a trial in a common law country, when the judge finds a gap in the code, he has to apply the customary law of the city where the court is.
Correct answer:

b) There are written statutes, but they do not cover every area of law and they are often not organized by subject. Precedents are also a very important source of law.

Multiple choice with reading passage

Read this section of a case and then answer question two.

Appellant was convicted of burglary of a dwelling house and he appeals. He is asking this court to reverse his conviction on the ground that the prosecution did not prove that the building he entered was a “dwelling house” under Alaska law. We reverse.

The term “dwelling house” is defined in section 65-5-35 of the Alaska Criminal Code as follows: “A building is a ‘dwelling house’ if any part of it is usually occupied by any person.”

Testimony showed that defendant entered an unoccupied house in Fairbanks, Alaska on the night of December 21, 1954, and took several coats. The evidence shows that the house had not been lived in for more than a year prior to the entry.
2. Which of the following is a statement of the **procedural history** of this case?
   a) Appellant was convicted of burglary. He appealed. The court reversed his conviction.
   b) The offense of burglary is dealt with in section 65-5-35 of the Alaska Criminal Code.
   c) Defendant entered an unoccupied house in Fairbanks, Alaska on the night of December 21, 1954, and took several coats.
   d) The building the defendant was charged with entering was not a “dwelling house” under Alaska law.

**Correct answer:**

a) Appellant was convicted of burglary. He appealed. The court reversed his conviction.
True or false

3. ____ A *summons* is a legal document requiring someone to come to court.

Correct answer:

• True
4. ____ In England and Wales, each party is allowed to use a specified number of peremptory challenges to dismiss jurors without giving a reason.

• False
Written question

5. Briefly explain how a judge’s role is different in a common law trial than it is in a civil law trial. (Note: I am only asking about trials, not appeals.)

Sample answer

The answer on the next slide would get fairly high marks. It is a good answer for the following reasons:
• It has a topic sentence and a conclusion (or conclusions.)
• It provides most of the important details.
• It is logically organized.
• It fully answers the question.
• It contains details from lecture, as well as from the slides.
A judge’s job is different in civil and common law trials because common law trials are adversarial, while trials in civil law countries are inquisitorial, especially in criminal law. In a common law trial, the lawyers do their own investigations, question the witnesses, and make their arguments to the jury. The judge’s job is make sure that both sides follow the rules. If one side thinks that the other is not following the law, they make an objection. The judge’s job is to decide if the objection was correct. In many ways, the judge is like a referee in a football game, while the lawyers are like the players.

By contrast, a judge in an inquisitorial trial decides which witnesses will be called and does most of the questioning herself. Unlike the questioning done by the parties in a common law trial, the judge’s questioning is supposed to be impartial and even handed. In general, a civil law judge is much more active at trial than a common law one.

Answers with common problems.

• The answers on the following slides would all lose a fair number of points.
Memorizing the slides and repeating them word for word

In the inquisitorial system, especially in criminal cases, an impartial officer of the state conducts a search for the truth. It is important that the judicial officer, judge or prosecutor, does not care whether a conviction results or not. In the adversarial system, the truth comes out when two parties vigorously defend their version of the facts from legally equal positions before a neutral and unprejudiced judge. Parties control the investigation and judges do not participate actively in the search for the truth.

Poor organization

A judge's job in common law is very difficult. There is a jury. In the civil law system, there is no jury. A civil law judge is an impartial judge. He looks at all of the evidence impartially. In common law systems, the parties do the investigating, not the judge. In civil law systems, the judge makes the decision about guilt or innocence, but in common law systems, the jury does this.
Not answering the question that was asked (in addition to other problems...)

In common law, if a court decides something in one case, another court must decide the same thing in a similar case. It is different than civil law systems like Turkey, because codes cover everything. However, if there is a gap, the judge can decide based on tradition. In common law, codes do not cover every area of law. Common law comes from English traditional law. Unwritten “common law” from prior court decisions is very important. Law is less theoretical and more practical.