



**FORMATION PROFESSIONNELLE DU
BARREAU DU QUÉBEC**

EXAMINATION BOOKLET

DROIT PÉNAL

SUPPLEMENTAL EXAMINATION

June 5, 2003

- (1) The examination in the DROIT PÉNAL section is intended to determine the extent to which you have met the ultimate goals set forth in the document entitled “Préambule Droit Pénal”.
- (2) You have a maximum of four hours to complete the examination. You are entirely responsible for managing your time.
- (3) The examination contains questions relating to the following section:
 - Droit pénal
- (4) The questions total 100 marks. You must obtain a mark of 60% or more in order to pass this examination.
- (5) You may use any written documentation which you deem to be useful.
- (6) For photocopying purposes, kindly use a **pen with black ink** to write your answers in your answer booklet.
- (7) **You must write legibly, otherwise your answers will not be graded.**
- (8) Please ensure that your examination booklet contains **10** pages (including this page) and that your answer booklet contains **5** pages.

FILE 1 (40 MARKS)

The situation described in File 1 is an evolving one: all the supplementary facts are to be added to the main portion of the fact pattern to form part thereof.

On March 10, 2003, at approximately 11:00 p.m., Charles Pilon, who is 19 years old, is driving a Honda Prélude on Taschereau Boulevard in Longueuil. He is accompanied by his friend Ginette Laprise, who is 22 years old.

While approaching an intersection, when the traffic light is yellow, Charles accelerates and crosses into the intersection. At that time, the front of a Jeep strikes the left side of Charles's vehicle. The impact is so strong that the Honda is thrown up onto the sidewalk; it strikes a pedestrian, Luc Rivard, and injures him severely. Charles is also injured and brought to the hospital by ambulance. His friend Ginette accompanies him.

In the ambulance, the ambulance attendants notice the smell of alcohol on Charles's breath. He tells them that he had drunk one or two glasses of red wine. Once at the hospital, Charles is immediately taken to an examining room because he has a severe cut on his forehead and a fractured femur. The ambulance attendants meet with police officer Pierre Joly and inform him of what they had noticed and of Charles's statement. The police officer meets with Doctor Plante and asks him if taking blood from Charles would endanger his life or health. Given that the doctor says that no danger would ensue, Pierre Joly enters the examining room. He explains to Charles that he has grounds for believing that, as a result of ingesting alcohol over the past three hours, Charles committed an offence under section 253 of the *Criminal Code*. He informs Charles of his constitutional rights and of his entitlement to exercise those constitutional rights and makes the following demand:

“I demand that you provide blood samples which, in the opinion of the doctor or the qualified technician who will draw your blood, are necessary in order to determine your alcohol level. If you refuse to obey my demand, you will be charged with refusal to provide a sample.”

After consulting privately with his lawyer, Charles refuses to comply with the demand made. The Crown prosecutor meets with the police officers and authorizes a charge of dangerous operation of a vehicle causing bodily harm under subsection 249 (3) of the *Criminal Code*. However, he does not agree to authorize a charge of refusal to provide blood samples under subsections 254 (5) and 255 (1) of the *Criminal Code*.

QUESTION 1 (5 marks)

Is the decision of the Crown prosecutor not to authorize a charge of refusal to provide blood samples well founded? Explain your answer.

SUPPLEMENTARY FACTS

Charles appears and elects to be tried before a judge and jury; his preliminary inquiry is postponed *pro forma* until April 10, 2003. On April 4, 2003, he contacts his lawyer, M^c Jules Sauvé, and tells him that he cannot be present on April 10, 2003 because he will be out of town on business.

QUESTION 2 (5 marks)

Charles Pilon wants to ensure that his presence in court on April 10, 2003 will not be compulsory. Assuming that he cannot count on obtaining the consent of the Crown prosecutor, what step(s) must M^c Jules Sauvé take?

SUPPLEMENTARY FACTS

Charles is committed to stand trial on the charge of dangerous operation of a vehicle causing bodily harm. On May 9, 2003, Judge Jean Roy of the Superior Court forms a jury and the evidence begins with the testimony of the physician who observed the injuries suffered by the pedestrian, Luc Rivard. The continuation of the trial is postponed until May 14, 2003. On Saturday, May 10, 2003, Judge Roy is injured in an accident and will be unable to preside in court for an indeterminate period.

QUESTION 3 (5 marks)

Is it mandatory that the continuation of the trial be postponed due to the fact that Judge Jean Roy cannot preside in court?

Justify your answer by referring to one or more specific and relevant provisions of the *Criminal Code* or the related legislation.

SUPPLEMENTARY FACTS

At Charles's trial, the witnesses for the prosecution state that the traffic light was yellow when the vehicle being driven by Charles entered the intersection and that it turned red at the time of the crash in the middle of the intersection. The pavement was dry and there was little traffic. An expert testifies that Charles was driving at approximately 58 km / hour at the time of the crash. The pedestrian, Luc Rivard, testifies that he was hospitalized for two weeks for treatment of a perforated spleen.

Charles testifies for the defence by stating that he had only been driving for one week and that he believed he could not safely stop his vehicle at the stop line. Therefore, he decided to continue while accelerating and entering the intersection even if the traffic light had already turned yellow a few seconds earlier.

QUESTION 4 (5 marks)

The trial judge instructs the jury as follows regarding the essential elements to be proven with respect to a charge of dangerous operation of a vehicle causing bodily harm.

Find the incorrect instruction from among the instructions written hereinbelow and circle the corresponding letter in the answer booklet.

- (a) There must be a causal link between the operation of the vehicle and the bodily harm.
- (b) The accused's conduct must constitute negligence as compared to the standard of the reasonable person.
- (c) The accused need not be aware of the risk caused by him.
- (d) The accused's inexperience cannot justify an acquittal.

SUPPLEMENTARY FACTS

In his trial before a judge and jury, Charles is acquitted of the charge of dangerous operation of a vehicle causing bodily harm which was brought against him.

In a separate case, he is charged with possession of cocaine for the purpose of trafficking, in violation of subsections 5 (2) and (3) of the *Controlled Drugs and Substances Act*. This charge is based on the following facts.

On March 11, 2003, at approximately 1:00 a.m., namely two hours after the accident, Charles's car was towed to *Garage Julien*. During the afternoon, the claims adjuster for Charles's insurance company proceeded, in accordance with Charles's instructions, to the garage to check the damage caused to the car. When he opened the back right door, he saw a transparent bag containing white powder on the floor. The claims adjuster immediately contacted the police.

The police officers seized the bag and its contents without a warrant. After analysis, the substance proved to be 450 grams of cocaine. The police officers did not find any fingerprints on the items seized.

At the trial before a judge without a jury, Charles's lawyer calls Ginette as a witness for the defence. She declares that the cocaine seized belongs to her and that Charles was not aware that the drug was in the car. Charles is acquitted. Given Ginette's confession, the police is contemplating charging her with possession of cocaine for the purpose of trafficking.

QUESTION 5 (5 marks)

Assuming that Ginette Laprise were to be charged with possession of cocaine for the purpose of trafficking, would her confession be admissible as evidence against her? Explain your answer.

SUPPLEMENTARY FACTS

The Crown prosecutor decides not to charge Ginette with possession of cocaine for the purpose of trafficking.

However, as a result of another occurrence described hereinbelow, on March 18, 2003 Ginette receives a summons to appear on May 8, 2003 on a charge of possession of 0.8 grams of cannabis resin in violation of the *Controlled Drugs and Substances Act*. The same summons demands that on May 1, 2003 Ginette report to the police station for purposes of the *Identification of Criminals Act*.

QUESTION 6 (5 marks)

Was the justice of the peace entitled to oblige Ginette Laprise to report to the police station for purposes of the *Identification of Criminals Act*?

Justify your answer by referring to one or more specific and relevant provisions of the *Criminal Code* or the related legislation.

SUPPLEMENTARY FACTS

The summons received by Ginette on March 18, 2003 was issued under the following circumstances.

The police report indicated that during Charles's medical examination at the hospital, the police officer had seized, in the waiting room of the hospital, a bag containing a brownish substance that he had seen fall out of Ginette's purse. Convinced that it was cannabis resin, he asked Ginette to identify herself and proceeded to arrest her. After checking, he noticed that an endorsed warrant had been issued against her in a case involving fraud.

At the police station, the officer in charge released Ginette with a view to compelling her to appear by way of summons with respect to the offence of possession of cannabis resin.

As to the charge of fraud, the officer in charge was of the opinion that he was legally required to hold Ginette for purposes of her appearance and he therefore decides not to release her.

QUESTION 7 (5 marks)

Is the claim of the officer in charge of the police station to the effect that he was legally required to hold Ginette Laprise for purposes of her appearance well founded?

Justify your answer by referring to one or more specific and relevant provisions of the *Criminal Code* or the related legislation.

SUPPLEMENTARY FACTS

On the advice of her lawyer, M^e Josée Dumont, Ginette pleads guilty to the offence of possession of 0.8 grams of cannabis resin. When making representations regarding sentencing, M^e Dumont suggests to Judge Roger Prieur that he give Ginette a conditional discharge.

After the representations of the Crown prosecutor, Judge Prieur states that he cannot legally grant Ginette a conditional discharge because she had previously been granted an unconditional discharge two years ago for shoplifting. Therefore, Judge Prieur imposes a \$100 fine on Ginette.

QUESTION 8 (5 marks)

Which court would have jurisdiction to hear a potential appeal on the sentence imposed upon Ginette Laprise?

Justify your answer by referring to one or more specific and relevant provisions of the *Criminal Code* or the related legislation.

FILE 2 (60 MARKS)

On May 23, 2003, at 7:00 a.m., just after exiting the building located at 2020 Lafayette in Montreal, namely the office of the Société de l'assurance automobile du Québec (hereinafter referred to as the "S.A.A.Q."), which building is the property of the Government of Québec, Xavier Laforce is intercepted and the police immediately begin a search of the building. Inside the building, in the entry hall next to Marcel Defoy's office, specialized police officers seize and defuse a powerful live explosive device connected to a timer which can be triggered by remote control.

Xavier is then arrested for the offences he has just committed. The police officers read him all of his constitutional rights and then search him. In the inside right pocket of his coat, they find a remote control device and a passkey used by him to enter the building. Xavier is taken to the police station for questioning.

Xavier had been under police surveillance. Therefore, the police officers saw him install the explosive device. The surveillance had begun ten days earlier when Marcel Defoy, Xavier's ex-brother-in-law and an employee of the S.A.A.Q., had contacted the police to admit that he was providing to Xavier, at the latter's request, the civic addresses of certain people based on the license plate numbers of their vehicles. Marcel's position at the S.A.A.Q. had made it possible for him to obtain this information. Marcel, who regretted having let Xavier drag him into this dirty business, was willing to cooperate with the police. At that time, it was decided to intercept Xavier's telephone communications and place him under surveillance. During the recording of these conversations, the police officers heard Marcel tell Xavier that he had decided to stop providing him with information and then they heard Xavier threaten to blow up Marcel if he stopped providing the information.

On the morning of May 23, 2003, Marcel, whose job includes unlocking the doors of the S.A.A.Q. building for the public at 8:30 a.m., arrives at work at 8:15 a.m. and is told of what has happened by the investigator.

QUESTION 9 (8 marks)

State two indictable offences, punishable by a sentence of imprisonment for life, with which Xavier Laforce may be charged.

Justify your answer by referring to one or more specific and relevant provisions of the *Criminal Code* or the related legislation.

ONLY THE FIRST TWO OFFENCES WRITTEN IN THE ANSWER BOOKLET WILL BE CORRECTED.

SUPPLEMENTARY FACTS

At the police station, the police officers once again inform Xavier of his right to a lawyer. Xavier refuses, stating that he has nothing to say in any event. The police officers nevertheless question him and reproach him with having provided addresses to criminals. They add that they are convinced that he was the one who provided the address of Sylvain Touchette, the police officer who was assassinated on May 16, 2003 when his house exploded. After a few minutes of thinking, Xavier declares that he was unaware that the information would be used to commit this murder and he adds that he also provided an explosive device to brothers Jim and Valère Ouimet. It had been agreed with them that the explosive device would be used only to blow up the police officer's house while he was not home. This earned him \$2,500. He refuses to say anything else at all.

Arrest warrants are issued and the police officers proceed to arrest Jim and Valère.

Xavier, Jim and Valère are jointly accused of conspiracy to commit murder and premeditated murder.

Before the preliminary inquiry is held, M^e Esther Rouillard, Xavier's lawyer, is served with the transcript of the private communications the prosecution intends to introduce into evidence against her client, together with the judicial authorization. M^e Rouillard observes that the recording of her client's private communications complies with the judicial authorization. She wishes to verify whether the judicial authorization was obtained legally.

QUESTION 10 (5 marks)

What written proceeding will M^e Esther Rouillard have to file in order to be able to carry out this verification?

Justify your answer by referring to one or more specific and relevant provisions of the *Criminal Code* or the related legislation.

SUPPLEMENTARY FACTS

The preliminary inquiry is held before Judge Marc Leroux of the Court of Québec.

QUESTION 11 (5 marks)

Does Judge Marc Leroux have jurisdiction to hear the preliminary inquiry? Explain your answer.

SUPPLEMENTARY FACTS

Xavier is committed to stand trial. M^e Rouillard, Xavier's lawyer, intends to file a motion during the trial in order to exclude her client's statement on the ground that it was obtained in violation of the *Canadian Charter of Rights and Freedoms*.

QUESTION 12 (5 marks)

At what procedural step must M^e Esther Rouillard inform the court of her intention to file this motion?

Justify your answer by referring to one or more specific and relevant provisions of the *Criminal Code* or the related legislation.

QUESTION 13 (5 marks)

Is M^e Esther Rouillard correct in claiming that her client's statement was obtained in violation of the *Canadian Charter of Rights and Freedoms*? Explain your answer.

QUESTION 14 (5 marks)

If Xavier Laforce's statement were to be introduced into evidence at the joint trial of the three accused persons, would it constitute evidence against Jim Ouimet and Valère Ouimet as regards the charge of conspiracy? Explain your answer.

SUPPLEMENTARY FACTS

Before the trial of the three accused persons begins, Jim becomes an informant. The prosecution files a joint indictment against Xavier and Valère, which indictment contains the following counts:

“On or about May 16, 2003, in Montreal, district of Montreal, unlawfully caused the death of Sylvain Touchette, thereby committing murder in the first degree, an indictable offence provided for in section 235 of the *Criminal Code*.

On or about May 16, 2003, conspired among themselves and with Jim Ouimet to commit the murder of Sylvain Touchette, thereby committing an indictable offence provided for in paragraph 465 (1) a) of the *Criminal Code*.”

Jim is the prosecution's star witness. He testifies and tells the jury that Xavier and Valère knew that the police officer would be in his house when the bomb exploded.

M^e Rouillard is stunned to hear Jim testify contrary to the statement which he made under oath and on video to the police officers when he was arrested. In that statement he had declared that Xavier was not aware of the police officer's presence in his home and that the explosion was to take place when he was absent. The Crown prosecutor completes his examination.

M^e Rouillard wishes to contradict Jim by using the videotaped statement which he acknowledges having made.

QUESTION 15 (5 marks)

Under these circumstances, what procedure must M^e Esther Rouillard follow?

Justify your answer by referring to one or more specific and relevant provisions of the *Criminal Code* or the related legislation.

SUPPLEMENTARY FACTS

Jim does not budge and stands by his testimony incriminating Xavier.

QUESTION 16 (5 marks)

What can M^e Esther Rouillard do in order to be able to argue in her pleading at the end of the trial that it is Jim Ouimet's statement made under oath that the jurors should accept as evidence and not his current testimony?

Justify your answer by referring to the specific and relevant jurisprudence.

SUPPLEMENTARY FACTS

At trial, the prosecution declares that it has finished presenting its evidence. Valère has cases pending before the Court of Québec for robbery, forcible confinement and kidnapping. His lawyer wants him to testify for his own defence.

QUESTION 17 (10 marks)

(a) Will the Crown prosecutor be entitled to cross-examine Valère Ouimet on his pending cases? Explain your answer.

(b) Will M^e Esther Rouillard, Xavier Laforce's lawyer, be entitled to cross-examine Valère Ouimet on his pending cases? Explain your answer.

SUPPLEMENTARY FACTS

Xavier testifies for his own defence at his trial and states that it had been agreed upon with Jim and Valère that the explosive device with which he was providing them would be used to blow up the police officer's house after he was gone and that the residence would be empty at that time.

QUESTION 18 (7 marks)

Assuming that the jury were to accept this version of the facts, what guilty verdict(s) would be rendered against Xavier Laforce on the two counts?

Justify your answer by referring to ALL the specific and relevant provisions of the *Criminal Code* or the related legislation.

CORRIGÉ
DROIT PÉNAL - EXAMEN DE REPRISE
5 juin 2003

DOSSIER 1 (40 POINTS)

QUESTION 1 (5 points)

La décision du procureur de la poursuite de ne pas autoriser une plainte de refus de fournir les échantillons de sang est-elle bien fondée ? Dites pourquoi.

Oui, car l'ordre de fournir l'échantillon de sang ne comprenait pas les garanties médicales ou prévues au par. 254 (4) du *Code criminel*.

OU

1. 5

Oui, car il aurait été possible d'obtenir un échantillon d'haleine.

QUESTION 2 (5 points)

Charles Pilon veut s'assurer que sa présence n'est pas obligatoire à la cour le 10 avril 2003. Dans l'hypothèse où il ne pourrait compter sur un consentement du procureur de la poursuite, quelle(s) démarche(s) doit faire M^e Jules Sauvé?

M^e Jules Sauvé devra faire signer à Charles Pilon une désignation d'avocat et la déposer à la cour. (Art. 650.01 du *Code criminel*)

OU

2. 5

M^e Jules Sauvé devra faire une demande de remise. (Art. 537 1) a) du *Code criminel*)

QUESTION 3 (5 points)

La suite du procès devra-t-elle obligatoirement être remise en raison de l'impossibilité de siéger du juge Jean Roy?

Appuyez votre réponse en faisant référence à la ou aux dispositions précises et pertinentes du *Code criminel* ou des lois connexes.

Non, art. 669.2 (1) ou 669.2 (4) *C. cr.*

3. 5

QUESTION 4 (5 points)

Le juge du procès donne les directives suivantes au jury quant aux éléments essentiels à prouver lors d'une accusation de conduite dangereuse causant des lésions corporelles:

Trouvez la directive erronée parmi celles inscrites ci-dessous et encerclez la lettre correspondante dans votre cahier de réponses.

- a) Il doit y avoir un lien de causalité entre la conduite automobile et les lésions.
- b) La conduite de l'accusé doit constituer de la négligence par rapport à la norme de la personne raisonnable.
- c) L'accusé n'a pas à avoir conscience du risque qu'il cause.
- d) L'inexpérience de l'accusé ne peut justifier un acquittement.

Réponse : b) La conduite de l'accusé doit constituer de la négligence par rapport à la norme de la personne raisonnable.

4. 5

QUESTION 5 (5 points)

Dans l'hypothèse où Ginette Laprise serait accusée de possession de cocaïne en vue d'en faire le trafic, son aveu est-il admissible en preuve contre elle? Dites pourquoi.

Non, son aveu judiciaire ne peut servir pour l'incriminer (art. 13 de la *Charte*).

5. 5

QUESTION 6 (5 points)

Le juge de paix pouvait-il obliger Ginette Laprise à se présenter au poste de police aux fins de la *Loi sur l'identification des criminels*?

Appuyez votre réponse en faisant référence à la ou aux dispositions précises et pertinentes du *Code criminel* ou des lois connexes.

1. Non, art. 509 (5) *C.cr.* OU art. 4 (5) *L.r.c.d.a.s.* OU art. 2 (1) c) *Loi sur l'identification des criminels*. 5 pts

OU

OU 6.

5

2. Non, art. 501 (3) *C.cr.*

4 pts

QUESTION 7 (5 points)

La prétention du fonctionnaire responsable du poste selon laquelle il a l'obligation légale de détenir Ginette Laprise aux fins de la comparution est-elle bien fondée?

Appuyez votre réponse en faisant référence à la ou aux dispositions précises et pertinentes du *Code criminel* ou des lois connexes.

Non, art. 499 (1) *C. cr.* OU art. 503 (1) d) *C. cr.* OU art. 503 (2) *C. cr.* OU art. 507 (6) *C. cr.*

7. 5

QUESTION 8 (5 points)

Quel tribunal aurait juridiction pour entendre un éventuel appel quant à la peine imposée à Ginette Laprise?

Appuyez votre réponse en faisant référence à la ou aux dispositions précises et pertinentes du *Code criminel* ou des lois connexes.

La Cour supérieure, art. 812 (1) b) *C.cr.*

8. 5

DOSSIER 2 (60 POINTS)

QUESTION 9 (8 points)

Énoncez deux actes criminels passibles d'une peine d'emprisonnement à perpétuité dont Xavier Laforce peut être accusé.

Appuyez votre réponse en faisant référence à la ou aux dispositions précises et pertinentes du *Code criminel* ou des lois connexes.

SEULS LES DEUX PREMIERS ACTES INSCRITS AU CAHIER DE RÉPONSES SERONT CORRIGÉS.

- 4 pts/ bulle
2 / 4
1. Avoir posé un engin explosif dans un lieu public ou installation gouvernementale, art. 431.2 (2) *C.cr.* 1.
2. Usage d'explosif, art. 81 (1) a) *C.cr.* OU art. 81 (1) b) *C.cr.* OU art. 81 (2) a) *C.cr.* 2. 9.
3. Tentative de meurtre, art. 239 *C.cr.* 3.
4. Méfait, art. 430 (2) *C.cr.* 4.

QUESTION 10 (5 points)

Quel acte de procédure M^e Esther Rouillard devra-t-elle présenter pour être en mesure de faire cette vérification?

Appuyez votre réponse en faisant référence à la ou aux dispositions précises et pertinentes du *Code criminel* ou des lois connexes.

Une requête ou une demande pour que le paquet scellé soit ouvert, art. 187 (1.3) *C.cr.*

10.

QUESTION 11 (5 points)

Le juge Marc Leroux a-t-il juridiction pour entendre l'enquête préliminaire? Dites pourquoi.

1. Oui, car un juge de la Cour du Québec est aussi juge de paix aux fins de l'enquête préliminaire. (art. 535 *C.cr.*) 1. 5 pts

OU

2. Oui, car au Québec, c'est un juge de la Cour du Québec qui préside généralement les enquêtes préliminaires.

OU 11.

2. 4 pts

QUESTION 12 (5 points)

À quelle étape procédurale M^e Esther Rouillard doit-elle informer le tribunal de son intention de présenter cette requête?

Appuyez votre réponse en faisant référence à la ou aux dispositions précises et pertinentes du *Code criminel* ou des lois connexes.

Lors de la conférence préparatoire, art. 625.1 (2) *C.cr.* OU art. 44 *R.P.C.S.Q.*

OU

Au procès, lors de la présentation de la requête, art. 24 (2) *CCDL.*

12.

QUESTION 13 (5 points)

M^e Esther Rouillard a-t-elle raison de prétendre que la déclaration de son client a été obtenue en violation de la *Charte canadienne des droits et libertés*? Dites pourquoi.

Oui, il n'a pas été informé du changement dans l'objet de l'enquête et les policiers devaient donc lui donner à nouveau son droit à l'avocat. 13.

(*R. c. Borden*, (1994) 3 R.C.S. 145; *Evans*, (1991) 1 R.C.S. 869; *Amyot*, (1991) R.J.Q. 954; *Black*, (1989) 2 R.C.S. 138.)

QUESTION 14 (5 points)

Dans l'éventualité où la déclaration de Xavier Laforce serait mise en preuve au procès conjoint des trois accusés, ferait-elle preuve contre Jim Ouimet et Valère Ouimet quant à l'accusation de complot? Dites pourquoi.

Non, il s'agit de oui-dire.

OU

Non il ne s'agit pas d'un acte manifeste.

OU

Non, la déclaration est faite après la réalisation du but commun.

14.

QUESTION 15 (5 points)

Dans ces circonstances, quelle procédure M^e Esther Rouillard doit-elle respecter?

Appuyez votre réponse en faisant référence à la ou aux dispositions précises et pertinentes du *Code criminel* ou des lois connexes.

Faire prendre connaissance préalablement à Jim des parties contradictoires de sa déclaration (lors du contre-interrogatoire), art. 10 *Loi sur la preuve*.

OU

Relater les circonstances de la prise de la déclaration, art. 11 *Loi sur la preuve*.

15.

QUESTION 16 (5 points)

Que peut faire M^e Esther Rouillard pour pouvoir invoquer dans sa plaidoirie à la fin du procès que c'est la déclaration faite sous serment de Jim Ouimet que les jurés doivent retenir comme preuve et non son témoignage actuel?

Appuyez votre réponse en faisant référence à la jurisprudence précise et pertinente.

Faire admettre la déclaration comme preuve (de son contenu), *R. c B. (K.G.)* [1993] 1 R.C.S. 740

OU *R. c. Bériault*, [1997] R.J.Q. 1171.

16.

QUESTION 17 (10 points)

a) Le procureur de la poursuite pourra-t-il contre-interroger Valère Ouimet sur ses causes pendantes? Dites pourquoi.

Non, car il ne peut contre-interroger un accusé que sur ses condamnations antérieures.

OU

Non, car il s'agit d'une preuve de caractère ou de propension

17.

b) M^e Esther Rouillard, procureure de Xavier Laforce, pourra-t-elle contre-interroger Valère Ouimet sur ses causes pendantes? Dites pourquoi

Oui, car Valère Ouimet est un témoin ordinaire par rapport à son co-accusé Xavier et M^e Rouillard peut donc le contre-interroger sur ses causes en suspens.

18.

QUESTION 18 (7 points)

Dans l'hypothèse où le jury prêterait foi à cette version, quel(s) verdict(s) de culpabilité serait (seraient) rendu(s) à l'endroit de Xavier Laforce sur les deux chefs d'accusation?

Appuyez votre réponse en faisant référence à TOUTES les dispositions précises et pertinentes du *Code criminel* ou des lois connexes.

Coupable d'homicide involontaire coupable.

19.

Art. 662 (3) *C.cr.* **OU** Art. 222 (5) *C.cr.*

20.

Art. 234 *C.cr.* **OU** Art. 236 *C.cr.*

21.

Aucun autre verdict ajouté

22.