

Session : **Septembre 2019**

Année d'étude : **Troisième année de Licence Droit**

Discipline : ***Anglais juridique***

Examen : **Premier semestre (UEC1 7296)**

Durée : **1h30**

Titulaires du cours : **Ms. Cingal, Mr. Huet, Mr. Jendoubi, Mrs. John-Richards**

Les documents et les appareils électroniques ne sont pas autorisés.

I. Complete the following sentences, adding between 15 and 30 words. Do not start a new sentence. (20 points)

1. Because of the Free Exercise Clause...
2. Pursuant to *Miranda v. Arizona*, ...
3. The marketplace of ideas...
4. Since *Gitlow v. New York*, ...
5. Pursuant to the fruit of the poisonous tree doctrine...

II. Read the following document and answer each of the questions below. (approximately ten lines/100 words for each question). Use your own words. DO NOT QUOTE DIRECTLY FROM THE TEXT. (30 points)

Iowa Supreme Court Closes Warrant Loophole, Slams U.S. Supreme Court For Weakening Fourth Amendment

By Nick Sibilla, *forbes.com*, August 13, 2018

The Iowa Supreme Court ruled that impounding a car and conducting an inventory search without a warrant violated the Iowa Constitution's protection against "unreasonable searches and seizures." Although the Iowa Constitution's provision is similarly worded to the Fourth Amendment of the U.S. Constitution, the Iowa Supreme Court decided to "stake out higher constitutional ground" and "reach results different from current United States Supreme Court precedent under parallel provisions."

Writing for the majority, Justice Brent Appel noted that his court is the "ultimate arbiter" for the meaning of the Iowa Constitution, and repeatedly chastised the U.S. Supreme Court for seeking "to minimize the scope of

individual protection under the Fourth Amendment.” Not only is this decision a victory for private property and civil liberties, the case is a potent reminder for how state constitutions can better protect individual rights when federal courts refuse to do so.

Back in October 2015, while driving to work on Highway 14, Bion Ingram was pulled over in Newton, Iowa because his license plate wasn’t illuminated. During the stop, Jasper County Deputy John Burdt found out that Ingram’s registration had expired. So Burdt decided to tow and impound the car, but he didn’t arrest Ingram.

By this time, another officer, Bernard Eckert from the Newton Police Department, had arrived to perform an inventory search of the car and catalogued what was inside the vehicle. Neither officer had a warrant. During the search, Eckert found a small black cloth bag next to the gas pedal and opened it, revealing a glass pipe and one gram of meth. Ingram was charged and convicted for possession.

He argued that the search violated his rights under the Fourth Amendment and the equivalent part of the Iowa Constitution (article I, section 8) and filed a motion to suppress the evidence. That motion was denied by a district court, which ruled that “inventory searches are an exception to the warrant requirement.”

Thanks to a string of decisions by the U.S. Supreme Court, police can conduct inventory searches without a warrant, so long as those searches comply with a “reasonable” local policy. But those policies are created by the very agencies that perform the searches. Nor do those policies have to be written down; they can instead be set by “custom and practice.”

These precedents, when coupled with a “disturbing trend” in caselaw for traffic stops, have imbued law enforcement with “virtually unlimited discretion.” As the Iowa Supreme Court noted, police have the power:

“...to stop arbitrarily whomever they choose, arrest the driver for a minor offense that might not even be subject to jail penalties, and then obtain a broad inventory search of the vehicle—all without a warrant.”

So when Ingram appealed his case, the Iowa Supreme Court unanimously ruled in his favor and took the opportunity “to restore the balance between citizens and law enforcement...by decoupling Iowa law from the winding and often surprising decisions of the United States Supreme Court.” In the majority opinion, Justice Appel decried the federal precedents that created “an essentially unregulated legal framework” for warrantless inventory searches that “amounts to a general warrant regime...anathema to search and seizure law.”

According to Justice Appel, the U.S. Supreme Court’s approach to these searches is “rich with irony.” First, since “local law enforcement is authorized to restrict itself,” that contradicts the original meaning of the Fourth Amendment, which was “explicitly designed as a bulwark to restrain law enforcement in the context of searches and seizures.”

After all, letting the foxes run the henhouse is “unlikely to provide robust protections to persons drawn into the warrantless inventory search and seizure net and more likely to reflect law enforcement convenience.”

With this ruling, the Iowa Supreme Court joins only a handful of other states that have rebuked the U.S Supreme Court on this warrant loophole. The Iowa Attorney General's Office declined to comment.

“While the United States Supreme Court in recent years has relaxed the grip of the traditional warrant requirement to advance the claimed interests of law enforcement,” Justice Appel wrote, “we have held firm in protecting privacy interests through a robust warrant requirement.”

1. Summarize the facts of the case. What constitutional issue is at stake here?
2. What decision did the Iowa Supreme Court make? To what extent does this decision differ from the jurisprudence of the United States Supreme Court?
3. Using your knowledge of the American Constitution, say whether you agree with the Iowa Supreme Court’s decision.

III. Choose ONE of the following topics and write an essay in approximately 250 words (+/- 10%). (50 points)

1. Comment on this quotation by Alan Dershowitz: “Freedom of speech means freedom for those who you despise, and freedom to express the most despicable views. It also means that the government cannot pick and choose which expressions to authorize and which to prevent.”
2. Did Incorporation create a new Bill of Rights?