ANJ /13.5.2011  **CRIMINAL COURT IN E,W.**

!NIE U.S.!!

JURISDICTION: means a power of court to hear cases; to try cases.

1. General jurisdiction: -means that the court may hear all cases in general jurisdiction

-Crown Court

1. Limited jurisdiction: -may hear som or limited Nr. of cases

-Magistrates Court

1. Exclusive jurisdiction: -no one can hear some cases, only the court with exclusive J.

-reserved only for the court with exclusive jurisdiction

-MAGISTRATES COURT

-CROWN COURT

-in England is no division of courts into civil and criminal courts.

M.C. can try criminal cases, but also civil cases

Division: a) inferior =court of 1st instance

 b) superior =Crown court

Offences: a) summary =tried summarily by M.C. = exclusive jurisdiction

 =based on the document – SUMMONS

 b) indictable =will be tried on INDICTMENT by C.C. = exclusive jurisdiction

 INDICTMENT= formal document what you are charged with

 c) triable either way =M.C., C.C.

**MAGISTRATE´S COURT:** =inferior court

 =with limited Jurisdiction

 =having excl.jurisdiction over summary offences

-has limited powers: -may sentence only upto 12 Mths/maximum sentence being imposed

 -fine: max 15.000 pounds (20.000 pounds for business companies)

-JUDGES: LAYMEN: we call them

LAY MAGISTRATES=LAY JUSTICES=JUSTICIES of PEASE (still the same person; JPs)

-no legal education, they sit in a bench=panel of 2 to 3 judges

DISTRICT JUDGE: has legal education

He is full-time-payed; sits alone

JUSTICES CLERK: is helping hand

-assists the Justices of Peace

-questions of law

-legal backround

JPs: 18-65 yrs.old

 26,5 days free to be at court; spent 26,5 days at court/per year

 Qualities: good character, good communicative skills, sound judgement, good understanding.

 Positive: - these are members of community

 -formal mix of social, political and etnic mix

 -they have a local knowledge

 -trial is quick

 -and cheaper (because they have no legal education)

 Negative: -no legal education

 -middle class

 -middleaged

 -their decission is inconsistent

 -sometimes they award high damages

**Procedure – M.C.**

-starts with SUMMONS

-Pleabargins – about you are GUILTY or NOT GUILTY

=statement about a guilty

GUILTY PLEA: -no court

 -will be directly sentenced

 -you may be realized on BAIL – may be granted by police/magistrates

NO GUILTY PLEA: -case will tried

 -TRIAL

 -case – adjourned(witnesses)

NO CONTEST PLEA -very rare

 -M.C .

 -later –NOT GUILTY

Not guilty -lasts longer

 -more complicated

 -PROSECUTION STARTS!

 -it will be tried later

 BURDON of PROOF: dôkazné bremeno

-standard of proof = 100% beyond reasenable doubt

1. selection of jury

2. the prosecution starts with OPENING STATEMENTS – pros., def.

3. EXAMINATION in CHIEF (witness testimony)

 -direct examination, cross exam., re-exam.

4. CLOSING ARGUMENTS

5. JURY INSTRUCTIONS – judge instructs jury on points of law.

6. JURY DELIBERATION and VERDICT: they discuss how they will decide

Proces: -pre-trial

 -TRIAL

 -post-trial

Offences triable either way – 2 questions before starting trial

? summarily on indictment; M.C. or C.C.?

? suficient evidence

=these are called COMMITAL PROCEEDINGS

Guilty plea – M.C. decides

Not guilty plea – Magistrate decides where the case will be tried

-too serious – C.C.

-M.C. or C.C.; defendant can deside

Appeals: a) against conviction (only „not guilty“)

 b) against sentence (if I say I´m guilty)

 sentence: a) decreased

 b) substituted

 sentence: -harsher (vyšší)

 -lesser

Appeal against conviction: judge may confirm it, or vary, or reverse it.

CROWN COURT: -general

 -exclusive for indictable off.

 -of pure criminal jurisdiction (no civil cases?)

 -offences tried on indictment

Judges of C.C.: high court judges

 Circuit judges

 Recorders

Guilty plea . -no jury (because the jury decides in criminal cases about guilty/not guilty)

Not guilty plea: -full trial

Witnesses: a) LAY WITNESSES: person who has knowledge relevant for trial

 b) EXPERT WITNESSES: EXPERT IN FIELD

Judged raised an OBJECTION (námietky): a) sustained (yes accept)

 b) overruled (not accept)

M.C.-C.C.-Court of Appeal-Supreme Court of Appeal

Jurisdiction: executive

 Legislative – is represntived by the Parliament (H.of Lords, H.of Commons)

 Judicial – Supreme Court of Appeal

 -within balance!

Appeal from C.C.

 -within 6 weeks -against conviction

 -against sentences

-a promission is needed to appeal; we call it a LEAVE.

2 parties: 1.defendant – appeals against conviction/sentence

 2. prosecutor- appeals against a LENIENT SENTENCE, against ACQUITTAL

COURT of APPEAL – a final, last one to appeal against sentence.

**SENTENCING:**

* Senteces are imposed by judges/magistrates

Purpose: -protection of public

 -punish offenders

 -deterrence off./to reduce crimes

 -form of reparation to the victims, to the part affected.

CUSTODIAL SENTENCIES: you are not at liberty, you are prisoner:

-remand prisonners (in JAIL): they are awaiting a trial

-sentenced prisonners (in Prison)- these are already sentenced

-concurent: 2 offences – 10 and 5 yrs – result: you will prisoned for 10 yrs

-consecutive: 2 off. – 10 and 5 yrs – result: you will prisoned for 15 yrs

 -suspended prison sentence=odložený, „podmienka“

-intermittent prison sentence (2003)= means that it is interupted; the idea is not to harm the family, but punisch the defendant

LIFE SENTENCE/LIFE INPRISONMENT – off. Murder

USA-DEATH PENALTY in some states

-FINE: pay money, compensation to the victims

-SENTENCE OF COMMUNITY SERVICE: -public works, cleaning streets, unpaid

-curfew. Requirement=not to leave some place

-exclusion requirement=prohibition to go some places-football stadium = ARE SUPERVISED!

PAROLE – if you complete a part of sentence, you should go

DISCHARGE: a) A B S O L U T E – you are not guilty, deliberate

 b) C O N D I T I O N A L

DEFENCES TO MURDER:

Off. a) fatal (result death)

 b) non-fatal (no death)

Fatal def.: a) general

 b) specific/special:

 PROVOCATION – murder will be reduced to mainslaughter

 Mittigating circumstances: suicide pact=A.R.+M.R.; provocation

 When are you guilty of the crime?

 CRIME=ACTUS REUS (external element)+MENS REA(internal element)

 -diminished responsibility:

 SELF DEFENCE: reasonable force!

 INSANITY: if you hve defect of your mind

 INFANCY: 10-18yrs – Youth Court; under 10 yrs age – DOLI INCAPAX

 AUTOMATISM: Parkinson decease, spasm of muscle, no controle

 INTERVENING ACT:

agent------------int.act------------------victim, consequention

 „but for“ principal= sinequanon

 Doctor----------------forgoten instrument, poison-----------------patient

Died? He´s died because instrument or drunk poison? CAUSATION, CAUSUAL LINK

EUROPEAN SYST. ANGLO-AM. SYSTEM

Is called INQUISITORIAL is called ADVERSARIAL

-is trying to find result by question; -there is competition, they are oposed to each other and the result

 has to be find out.

JUDGE: active part finder, even befor tria. JUDGE: pasive part; knows nothing

has all info (DOSSIER), will plane the questions about it before trial, he listens parties

to find result (victims, witnesses) – they are the source of info for him.

Layers: passive Attorneys(US)/solicitors(A): active,

 ask questions.

Parties-judge parties: gather evidence

Rights of deteinee Rights of deteinees: right of scilence,

 Loss of the R.of scilence, do not need tell anything what helps to prosecution, right against self-incrimination; right of presumption of inocence

 Are primary finding truths;

 Secondary-rights of individuals, detainees

Jury: no jury present

NOT ASK FOR BIAS! Jury:Jurrors – are they objective? They should be objective! – are asked for BIAS

Defendant-all info is available for him. Defendant: He is not allowed for the whole process. Only during the trial.

 **R E S U L T : trying to FIND THE TRUTH**

Longer shorter