ENGLESKI ZA PRAVNIKE I

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1. **Central Features of the English Legal System**

**Legal Content**

1.1 The characteristics of English law
1.2 Common law and equity
   1.2.1 The development of common law
   1.2.2 The growth of equity
1.3 Classifications of law
   1.3.1 Criminal and civil law
   1.3.2 Substantive and procedural law

**Aim**

To provide an introduction to some of the central features of the English legal system and a background to your study of the subject.

**Language content**

*Grammar:* grammatical terms - noun, verb, adjective, adverb; identifying different grammatical forms of lexical items in texts; use of prepositions  
*Oral function:* asking for meaning of words  
*Vocabulary:* dictionary use - recognizing dictionary order of words; finding appropriate (legal) meaning of words

**Legal exercises**

1. Look at the statements below and decide whether they are true (T) or false (F).
   - a The law in Scotland is the same as the law in England,
   - b English law has evolved gradually,
   - c Most of English law has been codified,
   - d The common law was developed by the judges,
   - e The judiciary is not independent of the government,
   - f The court structure of the English legal system is the same throughout the country,
   - g All the courts in the system are of equal authority,
   - h English judges collect evidence in the cases before them.
2. The aim of the following questions is to help you to begin to understand
the legal implications of the characteristics of English law. Write short answers to each
question below and use them as a basis of a discussion. Compare your answers to those
given in task 1.

   a. Would a codified system of law make the law more (i) certain, or
       (ii) flexible?

   b. Why is it important for judges to be independent?

   c. What is the disadvantage of an adversarial system of justice?

Oral work

3. You may not understand all the key words in these discussion questions. How will
you ask your teacher for an explanation? Here are some possible ways:
a 'Excuse me, can/could you tell me what "codified" means?'
b 'I'm afraid I don't know what "accusatorial" means.'
c 'I'm not sure what "flexible" means. Does it mean "adaptable"?'
Imagine that you do not understand the following terms. Ask each other for an
explanation.
   a evolve  
   b independent  
   c centralised  
   d hierarchical  
   e precedent  
   f impartial
If you are working on your own you should use your dictionary to look up any key words
you do not understand.

Research

4. Find out whether the legal system in your country is adversarial or
   inquisitorial.

Language notes: grammatical terms and vocabulary
5. Parts of speech

Look at the following grammatical terms and parts of speech.

**Noun:**
- e.g. law, England

**Verb:**
- e.g. (to) study, (to) compare

Do you know of any others? Name them and give examples.


**Adjective:**
- e.g. independent, legal

**Adverb:**
- e.g. independently, legally

**Pronoun:**
- e.g. it, she

**Preposition:**
- e.g. on, at

You will need to know these terms when using a dictionary but notice that abbreviations are used, for example n., vb., adj., adv., pron., prep.

Where necessary, use your dictionary and complete the table below:

<table>
<thead>
<tr>
<th>Noun</th>
<th>Verb</th>
<th>Adjective</th>
<th>Preposition</th>
</tr>
</thead>
<tbody>
<tr>
<td>a</td>
<td>to petition</td>
<td></td>
<td></td>
</tr>
<tr>
<td>history</td>
<td>x</td>
<td>b</td>
<td></td>
</tr>
<tr>
<td>equity</td>
<td>x</td>
<td>c</td>
<td></td>
</tr>
<tr>
<td></td>
<td>x</td>
<td>d*</td>
<td></td>
</tr>
<tr>
<td>e</td>
<td>f</td>
<td>specific</td>
<td></td>
</tr>
<tr>
<td>g</td>
<td>to abolish</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>litigant</td>
<td>h,</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

1 Give the opposite of c.

7. In legal English you will come across some specialist vocabulary which you may not know. Check that you understand the following items, either by asking someone else or by using an English-English dictionary. (NB: It may sometimes be necessary to consult a specialised law dictionary.

a litigant
b equitable
c injunction (can you find the meaning in the text?)
d contempt of court
e to prevail
f to supersede
g to bring an action
Dictionary exercise

8. Number the following words in the order you would expect to find them in a dictionary:

apply, unitary, federation, ascend, united, separate, systems, union, endure, appellor, commission, crime, appellant, committee, application, commit, criminal, ascertain.

If this exercise took you longer than three minutes or you had more than two mistakes, you should repeat the exercise with the following list of words:

resolution, procedural, discharge, proceeds, libel, liability, licence, appoint, profitable, process, profit, proceed, liable, repeal, procedure, respondent, represent, resolve.

9. Cloze activity

Using the words in the box complete this brief summary. Gaps may need one or more words.

<table>
<thead>
<tr>
<th>Common law</th>
<th>Court of Chancery</th>
<th>conflict</th>
<th>redress</th>
<th>Supreme court of Judicature</th>
<th>prevail</th>
<th>Middle Ages</th>
<th>remedy</th>
<th>relief</th>
<th>Judicature Act</th>
<th>common law court</th>
<th>the laws of equity</th>
</tr>
</thead>
</table>

Equity came into being in the (a) .........................because (b) .................

was not always able to give (c) ......................... to all litigants. The Court

of Chancery provided equitable (d) ......................... when it thought that

the common law (e) ......................... was inequitable. Until 1875 there

were two courts - the (f) ......................... and the (g) ......................... The (h) ......................... established a single court, the (i) ......................... When the

common law and the laws of equity (j) ......................... (k) .........................

should (l) .........................

10. Case references

A common method of learning in law by way of a case study, but before doing so let us look at the way cases are reported.
As judicial decisions form an important part of the law it is necessary that they should be available to lawyers and the public. The judgments in the higher courts are published in a series of law reports the most common of which are:

All England Law Reports

Weekly Law Reports

Queen's Bench King's Bench

Appeal Cases Chancery

Criminal Law Reports

There is a standard form of reference which tells the reader where the report of an individual case may be found. This reference contains the year in which the case was published, the name of the publication in abbreviated form and the page number at which the case can be found. In addition, when the case reports for a single year are contained in more than one volume of a publication the number of the volume will appear before the name of the publication. So, for example, a case reported at [1979] 3 All ER 365 will be found in the third volume of the All England Law Reports for the year 1979 at page 365.

You will notice the use of square brackets; this signifies that knowing the year is essential to finding the case report. If the case is cited with the year only and not the reference, round brackets are used, for example Donaghue v. Stevenson (1932). A final point you should remember at this stage is that case names are always highlighted in some way. In most books this will be by italics but if you are writing by hand you should underline the case names. It is important that you get into the habit of doing this from the start of your legal studies. Now do the following exercise.

Research

11. Where will the following cases be reported?

   b Armstrong v. Jackson [1917] 2 KB 822.
   d Day v. Grant [1987] 3 All ER 678; [1987] QB 972; [1987] 3 WLR 537. (Note that some cases are reported in more than one publication.)
Structure of the text

12. The case study *(Millers: Jackson)* follows several stages which are listed below. Try to identify each stage by giving line numbers:

- Background line
- Complaint line
- Action line
- Defence line
- Judgment line
- Reasons line

Vocabulary

13. Everyday words are often used in legal vocabulary but they convey a very specific meaning which may be different from the meaning you already know. For example, ‘held’ (see *Miller v. Jackson*) is used in legal terminology to introduce the judgment in a case. Look at the following words from the text:

- a nuisance
- b remedy
- c interest

Can you find the legal meanings in your English-English dictionary?

Language note: prepositions

14. Using the right preposition can be a problem. Complete the short case study below by using some of the prepositions which were used in *Miller v. Jackson*.

The plaintiffs owned a house next door (a) .................................... the
defendant's factory. Sometimes black smoke from the factory chimneys would blow across the plaintiffs' garden. The plaintiffs sued the owners of the factory complaining (b) ....................... damage caused (c) .................... plants in their garden (d) ........................... the

smoke and loss of enjoyment of their property. They sought (= past tense 'to seek') damages and an injunction to prevent the defendants using their premises as a factory.

**Held:** That the owners of the factory were liable (e)......................... the
plaintiffs (f) ................. the tort of private nuisance. The plaintiffs were awarded damages (g) ................. the loss of their plants and granted an injunction restricting the use of the defendants' property. It was reasonable that the defendants should use their premises as a factory but not (h) ......................a way which would cause nuisance (i) .................. adjoining property. The injunction would apply until the defendants were able to control the smoke (j) their chimneys.

Vocabulary

15. Complete the passage by choosing the correct words from the list which follows it.

Before the Norman Conquest the law in England was (a) ................. Fear of the power of local (b) ................. led Henry II to create a (c) ................. royal court in London called the (d) ......................... (e) ................. from this court would travel the country hearing (f) ................. and (g) ................. cases. The central court in London (h) ................. the legal issue in a case and this would be applied to the (i) ................. in the regional courts. In this way a (j) ......................... system of law was developed which was (k) ......................... to most parts of the country.

Equity was developed by the Court of (l) ................. It introduced new (m) ................. to provide (n) ................. for disappointed litigants. The common law courts were (o) ................. from the Court of Chancery until a single court was established by the (p) ................. Act 1873. Each branch of the (q) ................. Court of Judicature can administer (r) ................. law and (s) ................. However, the difference between the two is still important because of the (t) ................. of equity. These illustrate that equity is based on (u) ................. and (v) .................
Legal analysis

16. Read the facts of the following case and prepare a short judgment based on your knowledge of the maxims of equity. You should do this by following the procedure outlined in the exercise on structure given in question 14 on p. 9. Discuss your decision with other members of your group and be prepared to justify it by reference to the maxims. You should then compare your arguments with the decision of the Court of Appeal summarised in the Answer Section. If you are working on your own prepare instead a written judgment, also by following the exercise on structure given in question 14 on p. 9.

D. & C. Builders v. Rees [1965] 3 All ER 837

The defendants owed the plaintiffs £482 for building work. The defendants consistently refused to pay the money until, knowing the plaintiffs were in financial difficulty, they offered to pay £300 to settle the debt. The plaintiffs reluctantly accepted. They then sued for the recovery of the outstanding debt of £182. Their action was based on the law of contract which allows a creditor to recover payment of a debt even after accepting part payment in full settlement. The defendants claimed the protection of the equitable doctrine of promissory estoppel which in some circumstances will prevent a person from going back on a promise - in this case the promise to accept £300 as full payment of the Rees's debt.

Vocabulary

17. In order to check your understanding of some of the important terms in the passage, on a separate sheet of paper complete the table below by placing the following words and phrases in the correct column:

civil wrong, crime, Crown Court, guilty, plaintiff, life imprisonment, to convict, defendant, to prosecute, conviction, liable, county court, judgment for the plaintiff, prosecutor, punishment, to punish, offence.
<table>
<thead>
<tr>
<th>Civil</th>
<th>Criminal</th>
</tr>
</thead>
<tbody>
<tr>
<td>civil wrong</td>
<td>crime</td>
</tr>
</tbody>
</table>
Vocabulary

18. Use the words in the box to complete the following sentences. Try to remember the words from the previous exercise.

injunction conviction liable prosecutor defendant legal consequences
plaintiff sued 
defendant

a A criminal case is brought by a......................
b The person charged with the criminal offence is the ......................
c The party bringing a civil action is the ......................
d A civil action is brought against the ......................
e A court order not to do something is an ......................
f The defendant in a civil case is ......................by the plaintiff.
g A successful criminal prosecution will result in a ......................
h If the plaintiff is successful the defendant will be found ......................
i The distinction between crimes and civil wrongs relates to the ...................... of the act.

Differences in vocabulary between criminal and civil law

19. Below, in note form, is an outline of criminal and civil proceedings. Some gaps have been left for you to complete. Fill them in.

Crim. Proc.:
Prosecutor (a) .................. defendant —> (if def. guilty) conviction —>
(b) .................. or » (c) .................. or — id) ..................

Civ. Proc.:
(e) .................. (f) .................. —> (if pi. successful) liable —>
(g) ............. or —> (h) .................. or «, (i) ..................
A further difference between civil and criminal law is the way that cases are cited. The language for naming cases is very formal. In citing all cases in your daily studies it is usual to pronounce the 'v.' in both criminal and civil cases as 'and'.

**Case study**

20. What is wrong in the following situation and why?

Bob has been charged with murder and is sued in the county court. The plaintiff is successful in the action and Bob is found liable. He is punished by being ordered to pay the plaintiff £10,000 in damages.

21. Are the following cases civil or criminal?

a  *Gibson v. Manchester City Council*;

b  *Leaf v. International Galleries*;

c  *R. v. Bateman*;

d  *Leach v. Ft.*

**Legal exercise**

24. Consider the following situation.

Thomas has been charged with murder. He is pleading ‘not guilty’ to the charge. His trial is taking place at Fenbury Crown Court. The leading prosecution witness is PC Boot. In his evidence he states that he saw Thomas running away from the scene of the crime. Thomas has evidence which suggests that PC Boot was at home at the time that he said he saw Thomas but the judge refuses to let Thomas’s lawyer question PC Foot about this.

When Thomas gives his evidence the judge allows the prosecuting lawyer to question him. During the questioning the prosecuting lawyer tells the court that Thomas has previously been found guilty of a serious criminal offence.

How has the procedure of the trial disadvantaged Thomas?
2. The constitution

Legal content
2.1 Definition and purpose
2.2 Characteristics of the British constitution

2.2.1 The nature of the constitution

2.2.2 The sources of the constitution

2.3 The constitutional role of the judiciary

2.3.1 Parliamentary sovereignty

2.3.2 Separation of powers

2.3.3 The rule of law

2.3.4 Judicial review

Aim
To examine the constitutional framework of the English legal system and to provide an introduction to the concepts which form the basis of the system of government in the United Kingdom. Particular emphasis will be placed on the constitutional role of the judiciary and some comparisons made with the role of the judiciary in other countries. The final section will consider some recent areas of debate arising from the nature of the British constitution.

Language content
Grammar: dealing with complex sentences (using signpost words); constructions of the type 'ought not to have taken
Vocabulary: inferencing meaning from context; forming antonyms
(un-, in-, [1-, im-]) Oral function: asking for repetition
Study skills: notemaking symbols

Vocabulary
1. The four 'organs' of government are:
   a the monarch;
   b the executive;
   c the legislature;
   d the judiciary.
Use an English-English law dictionary to check the meaning of these terms.

Research

2. The executive is a broad term which includes the officials of government departments, but in the United Kingdom the collective name for the principal executive body is 'the Cabinet' which is made up of ministers of the Crown; for the legislature it is 'Parliament'. Individual members of the legislature are called 'Members of Parliament'. What titles are given to these groups/individuals in the government of your country

Research

3. Find out answers to the following questions

a When was the American constitution first written?

b Can it be changed?

c Does the United Kingdom have a written constitution as the USA does?

d Who can alter the rules of the British constitution?

4. Based on your answers to the questions in Task1. Are these statements true or false?

a An unwritten constitution can be easily changed,

b There are no legal remedies which the British courts can apply to protect the rights of the subjects,

c Parliament has no power to make laws to protect individual rights.

d Parliament must follow a special procedure to alter any constitutional laws,

e There are no documents containing constitutional laws in the United Kingdom.

f An unwritten constitution is more flexible than a written constitution.

A number of issues relate to the earlier definition of a constitution - the extent and control of government power and the protection of the rights of the citizens. Under a written constitution these are very clearly stated; for example, the constitution of the United States gives American
citizens the right, *inter alia* to free speech, peaceful assembly and privacy. Any law passed in contravention of these and other constitutional rights can be struck down by the American courts as unconstitutional and therefore void. Equally they can enforce the provisions of the constitution. The courts in the United Kingdom do not have this power. In the remainder of this chapter we will examine the reason for this and the relationship between the judiciary and the other organs of government.

**Legal exercises**

5. In countries with a liberal democratic system of government much emphasis is placed on the protection of individual freedom and rights. Can you think of six 'rights' which may be considered important in these countries?

6. Write a short essay of 150 words on the nature of the constitution in your own country. It should state whether the constitution is written or unwritten. If it is the latter what is the reason for this and how are individual rights protected? If the former, when did it come into existence and why? What are the provisions relating to the machinery of government and the protection of human rights?

Your essay should consist of four paragraphs each beginning as follows:

**Paragraph 1:** 'The constitution in (country) is written/unwritten . . . (follow on with historical reasons).'

**Paragraph 2:** 'The main features of (country's) constitution are . . . '

**Paragraph 3:** 'The constitution recognises a number of individual rights which include . . . '

**Paragraph 4:** 'The provisions in the constitution for protecting these rights are .

**Vocabulary**

7. If you do not know these words you could use a dictionary. However, it is always a good idea to consider whether enough information can be extracted from the 'unknown' word to enable you to carry on reading without using the dictionary. With each of these words that you do not know, ask yourself the following questions:

1. What part of speech is it?
2. Does it look (or sound) like any other word you know in English or another related language?
3. Is it next to or near a known word which can help you to understand?

1. tacit
2. express
3. adhered
4. enforce
Sometimes only question 1 will give you any information and you will want to use a dictionary (knowing the part of speech will be useful to you here). This self-questioning process takes much less time than you might think and will become quicker with practice. You probably already do something like this in your own language when you meet an unfamiliar word.

Let us apply this procedure to some of the words listed:

**tacit**

Question 1: You might think this word is a noun or an adjective.

Question 2: If you know Latin or the word 'taciturn' you will know that the idea of 'not speaking' is involved.

Question 3: It appears to be linked to 'express', but the meaning you probably know of 'express' as in 'express train' is not helpful.

At this point you will either have enough information from question 2 or you will go to your dictionary and discover that 'tacit' means 'understood without being stated'.

**express**

Question 1: It must be an adjective because it is linked by 'or' to an adjective ('tacit').

Question 2: The linking word 'or' could indicate that 'tacit' and 'express' have either similar or contrasting meanings. You will probably conclude that 'express' means the opposite of 'tacit'. Question 3: We have decided that the usual meaning is not helpful, but you might consider the meaning of the verb 'to express', that is 'to state something'.

Sometimes it is not necessary to ask all the questions:

**suffice**

Question 1: Since it follows 'must' it is a verb.

Question 2: It looks like 'sufficient' so it probably means ..........................................

Check that you remember some of the key words:

- a The opposite of 'tacit' is ........................
- b A rule which is reached by agreement is called a.................................
c The head of state in the United Kingdom is called...........................

(several answers are possible).

d Parliament consists of the House of Lords and.........................

e The leader of the government is the ..............................

Legal exercises

8. Which conventions are involved in the following situations?

a The government is defeated on a major issue in the House of Commons. The Prime Minister advises the Queen to dissolve Parliament and a general election is called. The government wins a large majority in the general election but the Queen invites the leader of a minority party to form the next government.

b After a major defeat in the House of Commons the Prime Minister refuses to resign or ask the Queen to dissolve Parliament. A member of the opposition party applies to the High Court for an order forcing the Prime Minister to resign. The High Court grants the order,

c The Environment Party wins a general election on its promise to abolish all motor vehicles. The Abolition of Motor Vehicles Bill is subsequently passed by a large majority in Parliament but the Queen refuses to give the Royal Assent.

Discussion and writing

9. Conventions are not like 'real' laws in that there are no formal rules for their creation and they are not enforceable by the courts. Discuss the following questions with your group. You may find the additional reading references helpful in preparing your answers. If you do not have access to this material you can answer the questions by thinking about why informal rules of behaviour in general, such as social habits, are obeyed and the consequences of a breach of these rules

a Why are conventions obeyed?

b Are all conventions of equal importance?

c What do you think would be the consequences of a breach of a convention?

d What is the main advantage of constitutional conventions compared to written constitutional rules?

If you are working on your own write an essay of 150 words on these topics. Use one paragraph to answer each part of the question as in the following essay plan:

**Paragraph a:** 'Constitutional conventions are ... (follow with a definition). They are obeyed because . . . '
**Paragraph b:** 'Not all conventions are of equal importance . . . (follow with examples from the text).'

**Paragraph c:** 'The consequences of a breach of a convention will depend upon . . . (relate your comments to paragraph b).'

**Paragraph d:** 'Constitutional conventions have the advantage of being flexible because . . . (then compare to written constitutions).'

**Legal exercises**

10. **Answer these questions.**

   a. To which relationship does the doctrine of parliamentary sovereignty apply?
   b. What test do the courts apply to test the validity of legislation in the UK?
   c. What legal authority is there for the rule that judges must obey Parliament?
   d. Why was the Supreme Court of the United States able to strike down the legislation on racial discrimination in *Brown v. Board of Education*?
   e. In 1995 the British government presents the Female Education Bill to Parliament. Section 1 of the Bill states: 'No blue-eyed female child shall receive a full-time education after reaching the age of ten years.' The legislation is approved by a majority of both Houses of Parliament and receives the Royal Assent.
      
      a. Will the British courts be obliged to enforce this law?
      b. Would your answer be different if Britain had a written constitution guaranteeing a right to full-time education up to the age of sixteen years?

**Comprehension check**

11. Fill in the missing words from the words in the box below.

There are (a) ................. main functions of government. These are

the (b) ................. the (c) ................. and the (d) .................

The theory of separation of powers states that these functions should be carried out by (e) ................. bodies. The British constitution does not (f) ................. to this theory. The same people are members of the (g) ................. and the (h) ................. and there are some (i) ................. functions which are carried out by the courts.

The distinction is clearer in the constitution of the (j) ................. where the executive, legislative and judicial roles are performed by (k) ................. bodies. The theory is (l) ................. rather than (m) ................. of the liberal system of government, an essential feature.
of which is that the (n) ...................should be (o) ...................of the (p) ...................

                       and the (q) ...................

independent, legislature, United States, conform, executive, judicial, three, different, prescriptive executive, judiciary, administrative, legislature, descriptive, legislative, different, executive.

Vocabulary

12. When forming and recognising opposites (antonyms) there are several prefixes which can be used, for example un- (as in 'unknown'). The following words, which have been used in Chapters 1 or 2, can be used with the prefixes un-, in-, il- or im- to form their opposites. Write them down using the correct prefix.

<table>
<thead>
<tr>
<th>a</th>
<th>lawful</th>
<th>b</th>
<th>familiar</th>
<th>c</th>
<th>practical</th>
<th>d</th>
<th>legal</th>
<th>e</th>
<th>fair</th>
<th>f</th>
<th>valid</th>
<th>g</th>
<th>dependence</th>
<th>h</th>
<th>make</th>
</tr>
</thead>
<tbody>
<tr>
<td>i</td>
<td>justice</td>
<td>j</td>
<td>partiality</td>
<td>k</td>
<td>equitable</td>
<td>l</td>
<td>written</td>
<td>m</td>
<td>practicable</td>
<td>n</td>
<td>constitutional</td>
<td>o</td>
<td>licit*</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

NB: These prefixes often indicate an opposite meaning but the same letters (e.g. im-, in-) also occur in words where this is not the case, for example 'important', 'influence'.

Research

13. To what extent does the government of your country conform to the theory of separation of powers? To answer this question you should identify the three organs of government in your country and find out whether their functions are performed by different people or bodies.

Legal exercises

14. Write a short essay of 200 words on what you understand by the separation of powers and the reasons for maintaining it. You should include a discussion on whether the theory applies to the
British constitution and make comparisons with other countries including your own. You may find the following essay plan helpful:

a. Define the theory,

b. The reasons for the theory.

c. To what extent does it apply to the British constitution?

d. Compare with the constitutions of other countries.

**Oral work**

15. a. In class or in discussions you will sometimes not hear or understand what somebody says. How will you ask them to repeat it?

Here are some possible ways. They are all polite and formal enough to be used with teachers but not too formal to be used with other students.

'I'm sorry, I didn't quite hear/catch what you said just now about [the rule of law].'

'Could you possibly repeat your answer to [the last question]?'

'Excuse me, but I still don't really understand what you said about [Internment]; would you mind going over it again?'

b. Imagine that you did not hear or understand the following items. Ask each other for repetition.

a. examining the merits of the procedure;

b. question 2b;

c. detainees;

d. the separation of powers;

e. how the courts can control executive action;

f. the distinction between 'right' and 'lawful'.

**Legal exercises**

16. How does the rule of law relate to the need to 'guarantee the courts their political independence'?

17. Discuss the following situation with your group using your knowledge of parliamentary sovereignty and the rule of law. Apply the same analytical procedure which is used in the discussion on internment above. If you are working on your own produce a written analysis in the same form.

The Prohibition of Dogs Act 1993 makes it a criminal offence for an individual to keep a dog as a household pet. William owns a dog contrary to the provisions of the Act. He is charged with the offence at the local police station and then locked in a cell for twenty-four hours. The Act does not give the police the power to detain people charged under its provisions.

a. In the recent case of *Maloney v. Metropolitan Police Commissioner* [1979] Ch 344, an action was brought applying for a declaration that telephone tapping authorised by the Secretary of State was illegal and unconstitutional. In dismissing the application Vice-Chancellor Megarry stated:
**Vocabulary**

18. Several words and phrases which mean 'legal' or 'illegal', 'allowed' or 'not allowed'. See how many you can find and list them as follows:

*illegal/not allowed*
19. Complete the table below, using a dictionary if necessary.

<table>
<thead>
<tr>
<th>Noun</th>
<th>Verb</th>
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<tbody>
<tr>
<td>a.</td>
<td>assume</td>
<td>x</td>
</tr>
<tr>
<td>b.</td>
<td>contend</td>
<td>c.</td>
</tr>
<tr>
<td>d.</td>
<td>e.</td>
<td>valid</td>
</tr>
<tr>
<td>f.</td>
<td>prescribe</td>
<td>g.</td>
</tr>
</tbody>
</table>
Legal exercises

16. What is meant by the statement that 'judicial review is a practical application of the rule of law'?

17. What do you understand by the term *ultra vires*?

18. In what way does the process of judicial review regulate the relationship between administrative bodies and the individual citizen?

To answer the following two questions you will first need to identify the powers which have been given to the relevant authorities. Secondly, look at the actions which have been taken by the authorities, and thirdly compare these to their powers. Look to see if the authorities have done something which they have no power to do or if they have failed to do something which they are required to do.

19. Consider the following situation in the light of what you now know about judicial review.
Marion has a nine-year-old daughter, Alison, who has grey eyes. Alison attends the local village school. One day Marion receives a letter from the local education authority advising her that under s.1 of the Female Education Act 1997 Alison's right to full-time education will cease on her tenth birthday.

Advise Alison on the validity of this action.

20. The Town Redevelopment Act 1994 gives local authorities the power compulsorily to purchase and clear land for 'the building of new housing estates'. It also imposes a duty to 'consult those people who will be affected by any such compulsory purchase'.

Newtown Council vote to compulsorily purchase and redevelop a group of houses which includes a house owned by Mr Stormy. The council issues orders for the immediate demolition of the houses and announces its intention to build a new housing estate and council offices on the site.

Advise Mr Stormy of his legal position.

Vocabulary

25. Try and find words or phrases with an equivalent meaning to those below.

- a basic
- b fixed
- c most of the time
- d caused
- e strengthens
- f in spite of
- g damage
- h alone

Notemaking

26. Use the outline below to make notes on the excerpt from Dugdale above. You will need to use abbreviations; many of them will be personal but below are some common abbreviations and symbols which you will find useful.

- e.g. for example i.e. that is, in other words
- vs. (versus) against
- cf. compare(d), with
- + (or &) and = same as, like
- :jfc different from, unlike
- -> cause, lead to, so

caused by therefore because I'
however

rise, increase ->x fall, decrease

> more than
< less than
Legal exercises

27. What effect would a Bill of Rights have on the following constitutional maxims: a) parliamentary sovereignty, b) judicial review?

28. Use the answers to question 42 above as the basis for a debate on the following proposal:

‘A Bill of Rights would increase the protection of human rights in the United Kingdom.’

29. Choose two teams of three people to present arguments for and against the proposition. The speakers should be allowed five minutes each to present their arguments and they should then answer questions from the rest of the group. A vote should then be taken on which team has presented the most convincing arguments.

To prepare for the debate you will need to reread this chapter very carefully, taking notes on the arguments which could support either side of the debate. The arguments should then be presented in a structured way with each member of the team addressing a particular issue. These should include:

a) An examination of the features of the British constitution and how these affect the roles of the legislature, executive and judiciary.

b) How are human rights protected under the present system? Are these safeguards adequate?

c) What effect would a Bill of Rights have on the roles of the legislature, executive and judiciary? Would this provide greater protection of human rights?

30. If you are working on your own write an essay of 500 words analysing the arguments for and against the proposition using the preceding points.

31. Section 1 of the Protection of Citizens’ Rights Act 1995 states: ‘All citizens shall have the right to privacy and freedom from unwanted intrusion into their private lives.’

Detective Sergeant Squeeze is a senior police officer in ‘ squad. His work brings him into regular contact with a pi businessman, Flash Harry, and on several occasions DS has entertained Flash Harry at his home. A national newspaper Investigator, is publishing a series of articles on business receives information that Flash Harry is not completely horn business dealings. During the course of investigati information one of its reporters takes a photograph of DS : and Flash Harry having dinner together at a London reste publishes the photograph under the heading ‘Senior Police Dines with Suspected Criminal.’

How does this situation reflect fears in the enactment of a Bill of Rights in the United Kingdom
3. Sources of Law

Summary

Legal content

3.1. Case law

3.1.1. The hierarchy of the courts

3.1.2. The binding element in precedents

3.2. Statute law

3.1.3. The purpose of statutory interpretation

3.1.4. Aids to interpretation

Aim

To provide an introduction to the law-making processes and to examine the ways in which the judges identify the law. The chapter concentrates on the primary sources of law - case law and statutes - through an analysis of judicial precedent and statutory interpretation. The advantages and disadvantages of these principles will be assessed and some comparisons made with other legal jurisdictions. A practical illustration of the system is provided by case and statute reading exercises

Language content

Grammar: decoding long sentences (by identifying main clause);
'so' as a pro-form; unreal conditionals
Vocabulary: Latin plurals; adjectival suffixes Study skills: bibliographical references

1. Decide whether the following statements are true or false:
Only the High Court is bound by decisions of the Court of Appeal.

The House of Lords is bound by its own precedents.

The High Court must always follow the precedents set by the House of Lords.

English courts are not bound by the European Court of Justice.

Legal exercises

2. What is meant by the doctrine of *stare decisis*?

3. What was the significance of the 1966 Practice Statement?

4. When may the Court of Appeal depart from its own previous decisions?

5. What is the position of the European Court of Justice in the English legal system?

Vocabulary

6. The Latin phrases *ratio decidenti* and *obiter dictum* are explained in the text but it is also useful to look at English words which are based on these Latin words.

   *ratio* - rational, based on reason.

   *dictum* - to dictate, e.g. to ‘speak’ a letter to a secretary, to ‘tell’ someone what to do.

   Notice that plurals are formed in Latin in a different way from English, e.g.

   *ratio* - (pi.) *rationes dictum* - (pi.) *dicta*

   If you have not learnt Latin you will need to note the different types of plurals each time you meet a new one.

7. What would ‘the former’ and ‘the latter’ refer to in texts?

This case is a good example of a simple application of the neighbour principle and clearly illustrates the point made in the extract on p. 48 that judges in later cases may apply a *ratio* in different factual situations. Of course, not all cases are so straightforward. The case of *Hedley, Byrne & Co. Ltd v. Heller & Partners Ltd* [1964] AC 465 provides a more complex example.

8. Apart from the basic facts there are two important ways in which this case can be distinguished from *Donoghue v. Stevenson*. 
Vocabulary

9. Find words in the excerpt which have similar meanings to those listed below:
   a responsible
   b careless
   c clearly stated
   d wrong reports.

Language and information check

10. In order to revise some prepositions and review information in the above excerpt, form six sentences, choosing one item from each column below:

   a The bankers inquired with his advice.
   b He had dealings for a large company.
   c They relied to the loss.
   d She sued him on its readers.
   e A newspaper is not financially accountable for his negligence.
   f The bank was not responsible into the financial situation.

The distinguishing facts in Hedley Byrne v. Heller were:

   i. the case involved negligent words or statements as opposed to negligent actions, and
   ii. the plaintiffs had suffered financial loss rather than physical injury.

You will see that these distinguishing facts led the House of Lords to restrict the neighbour principle which is based on foresee a bill of harm. They added the further requirement of a 'special relationship' between the plaintiffs and the defendants. This has become the ratio decidendi of the case. As with the neighbour principle the nature of a 'special relationship' has been determined by subsequent cases involving financial loss suffered as a result of negligent words - and so the case law develops.

Legal exercises

11. Distinguish between ratio decidendi and obiter dicta. What is the significance of the distinction?
12. What is the difference between reversing and overruling?
13. Why do you think it was necessary for the House of Lords to distinguish between negligent words and negligent acts in Hedley Byrne v. Heller?
14. As a lawyer, you are consulted by your client, Mrs Gamble, over the following problem. On which case precedent would you base your advice and why?
   Mrs Gamble had inherited £10,000 when her rich uncle died. She consulted her bank manager, Miss Nugget, on the best way to invest the money. On the basis of her advice Mrs Gamble
bought £5,000 worth of shares in Intoil pic. She invested the remaining £5,000 in a construction company called Kwikbuild pic after reading an article about the company in a national newspaper. Both companies were financially unsound at the times Mrs Gamble invested in them and six months later both Intoil pic and Kwikbuild pic have ceased trading and Mrs Gamble has lost all her money.

This last type of question is very common in legal study; it is called a ‘problem’ question. There is a special technique for answering these questions which is different from the usual essay technique. It can be quite simply stated although in practice it is more difficult:

a. Identify the area(s) of law involved - often there will be more than one.
b. State what the law is in the relevant area(s) by an analysis of cases.
c. Apply the law to the facts of the problem, particularly analysing any facts which distinguish the problem from the relevant case law.

Although you are in a way being asked to act as a judge in problem questions it is not important that you reach a decision - often the case law will be uncertain so that it will not be possible to do so. The questions are a test of your ability to recognise the legal issues involved and to analyse the law.

Discussion

15. Think about these questions as you discuss the advantages and the disadvantages of judicial precedent.

a. How does certainty in the law achieve justice?
b. Why does justice also demand flexibility in the law?
c. How does adherence to precedent assist impartiality in judicial decision-making?
d. How does the process of distinguishing provide for flexibility in the law?
e. How may ‘bad decisions’ be overruled?
f. Would justice be more easily achieved if the Court of Appeal was free to depart from its own previous decisions?
16. Identify the advantages and disadvantages of judicial precedent and complete the table below.

<table>
<thead>
<tr>
<th>Advantages</th>
<th>Disadvantages</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Certainty:</td>
<td>a.............</td>
</tr>
<tr>
<td>i. may prevent mistakes by judge</td>
<td></td>
</tr>
<tr>
<td>ii. ..................</td>
<td></td>
</tr>
<tr>
<td>b. etc.</td>
<td>b/etc.</td>
</tr>
</tbody>
</table>

8. Decide if these statements are true (T) or false (F).
   a The USA has a centralised legal system,
   b The decisions in US Federal and District courts are binding in later cases.
   c The legal code is important in Continental legal systems,
   d Continental systems of law have been greatly influenced by the writing of jurists,
   e In England, textbooks have greater authority than judicial decisions.

9. What is the earlier reason for the relative unimportance of the single decision on the Continent?

Bibliographical references

10. Bibliographical references (or citations) which may need some explanation: As with cases there is a standard way of referring to articles in legal journals. You will see that it is very similar to the way that cases are cited. There are a large number of law journals with most countries publishing their own. Full details of these journals and their abbreviated references can be found in most good law dictionaries.

Author's surname.

Title. Italic letters indicate that this is a book not an article.

3rd edition. It is important to find the right edition because new information is included in later editions and, of course, page numbers may change.

Year of publication.

From page 17 to page 19.


1 *opere citato* (Latin) means 'in the work cited', i.e. the book by Cross which has already been mentioned.

Goodhart, 'Precedent in English and Continental law', (1934) 50 LQR 40.

Title. Ordinary print and inverted commas indicate that this is not a book but a journal article.

Year of journal.

Law Quarterly Review.

Volume number

Page number
Language note

8. ‘So’ often replaces a word or clause which has already been used in the same or previous sentence. It can be used formally in writing or informally in conversation.

   Example: A: ‘John saw the Prime Minister yesterday.’

   B: ‘Did he say so?’ (so = that he saw the PM yesterday)

   Example: Many people feel that a Bill of Rights would increase the protection of personal liberties.

   The Labour party thinks so but the Conservative party does not. (so = that a Bill . . .)

Legal exercises

9. There are four possible interpretations of the following simple sentence. What are they?
   ‘John met Peter and he raised his hat.’

10. Which of the following would you consider to be a ‘vehicle’?

    a. a car
    b. a pram
    c. a bicycle
    d. an aeroplane.

Which of the following would you consider to be a ‘building’?

    a. a tent
    b. a house
    c. a garden shed
    d. a caravan.

17. Legal exercises

    a. What is the constitutional reason for judges seeking to find the intention of Parliament when interpreting statutes?
    b. Why does the need for statutory interpretation arise?
    c. Distinguish between internal and external aids. Give examples of both.
    d. Why do you think Parliament enacted the statute which was at issue in the Berriman case? Do you think the decision of the majority of the House of Lords in that case reflected the intention of Parliament?

    There is a particular technique to use in answering questions which require you to apply legislation to a given situation:

    i. Decide on the words which will require interpretation.
    ii. Analyse the words on the basis of your knowledge of the rules of statutory interpretation.
    iii. Apply your analysis to the situation.

    Apply this technique to the following question.

    e. Consider the following situations in the light of the relevant statutory provisions:
Section 4 of the Offensive Weapons Act 1994 provides: 'Any person found carrying a gun, pistol, knife or any other offensive weapon shall be guilty of a criminal offence.' James is charged under the Act after being found carrying a piece of broken glass which he had picked up off the street.

The Employers' Liability (Defective Equipment) Act 1969 section 1(1) reads:

'Where, after the commencement of this Act - (a) an employee suffers a personal injury in the course of his employment in consequence of a defect in equipment provided by his employer for the purpose of his employer's business; and (b) the defect is attributable wholly or partly to the fault of a third person (whether identified or not), the injury shall be deemed to be attributable to negligence on the part of the employer . . .'

Section 1(3) reads: 'In this section - "equipment" includes any plant or machinery, vehicle, aircraft and clothing . . . "personal injury" includes loss of life . . .'

Bert is a sailor on board the Morning Star (a super tanker). He was employed by Transpo pic who owned the vessel. The ship sinks on its first voyage as a result of a defect in its construction. Bert suffers serious injuries in the incident. Rose, who is also employed by Transpo pic, is on the ship for a free ride as a reward for thirty years' service to the company. Rose dies in the accident.

Grammar

8. Unreal conditionals (in the past) are formed as follows:

If + had + past participle, would/could/might have + past participle.

For example: 'If the legislature had discovered the gap, it would have filled it in.'

These conditionals are called 'unreal' because in fact both actions did not happen.
Vocabulary

18. Adjectives can usually be recognised by their suffixes (endings) and this can help your understanding of a text. Using the nouns and verbs below, choose appropriate suffixes to form adjectives. The following suffixes will be needed: -ive, -able, -al, -ory, -ary, -ing, -ent. (All the adjectives have already been used in the book.)

\[
\begin{array}{ll}
\text{Noun} & \text{Adjective} \\
\text{defect} & \text{defective} \\
\text{reason} & \text{reasonable} \\
\text{law} & \text{legal} \\
\text{description} & \text{descriptive} \\
\text{continent} & \text{continental} \\
\text{statute} & \text{statutory} \\
\text{convention} & \text{conventional} \\
\text{excess} & \text{excessive} \\
\text{equity} & \text{equitable} \\
\text{hierarchy} & \text{hierarchical} \\
\text{discretion} & \text{discretionary} \\
\end{array}
\]

\[
\begin{array}{ll}
\text{Verb} & \text{Adjective} \\
\text{elude} & \text{elusive} \\
\text{neglect} & \text{negligible} \\
\text{foresee} & \text{foreseeable} \\
\text{coerce} & \text{coercive} \\
\text{precede} & \text{precedent} \\
\text{attribute} & \text{attributable} \\
\text{speculate} & \text{speculative} \\
\text{reconcile} & \text{reconcilable} \\
\text{distinguish} & \text{distinguishable} \\
\end{array}
\]

19. Write an essay of 500 words on the following statement:

Whenever the strict interpretation of a statute gives rise to an absurd and unjust situation, the judges can and should use good sense to remedy it - by reading words in, if necessary - so as to do what Parliament would have done, had they had the situation in mind.
Essay questions in the form of a quotation are very common. Before writing your essay think carefully about the meaning of the quotation and its particular emphasis in relation to the topic. You will rarely be asked to provide only factual information; you must also be prepared to comment critically on the subject and to analyse the relevant areas of debate or controversy. Read the following essay plan to help you structure your essay properly.

20. Discussion

a. What is the aim of the judges when they are interpreting statutes?

b. What is the constitutional reason for this aim?

c. What difficulties are involved in achieving this aim?

d. Why is statutory interpretation necessary?

e. What aids are available to assist judges in the interpretation of statutes?

f. What is strict interpretation and how does it lead to absurd and unjust situations?

g. What approach to interpretation is Lord Denning advocating? Why is it controversial?
The Courts

Summary

Legal content

4.1. Classification of the courts

4.2. The civil courts

4.2.1. Small claims

4.2.2. Reform

4.3. The criminal courts

4.3.1. The decision to prosecute

4.3.2. The classification of offences and the criminal courts

4.3.3. Review

4.4. Tribunals and arbitration

Aim

To provide a factual account of the structure of the English courts based on the distinction between civil and criminal courts, and courts of first instance and appellate courts. A critical assessment of the functions and purpose of the system will be included together with an analysis of proposals for reform.

Language content Grammar: long noun phrases

Vocabulary: dictionary use - using guidewords; verb + noun collocations; negative affixes (-less, dis-, mis-)

1. **Answer these questions**

   a What are the civil courts of first instance?  
   b Who will hear a case in the High Court?  
   c What is the term used for the party who appeals to a higher court?  
   d What is the most important civil court of first instance?  
   e From which courts will an appeal lie to the Court of Appeal?  
   f To which court will an appeal lie from the magistrates’ court?  
   g What is the highest appellate court?  
   h What appeal procedure was introduced by the Administration of Justice Act 1969?

**Dictionary use**

2. Which page will the word be on? When looking for a word it is useful to look at the top of the page where the first and last entries on that page are printed. For example, if you are looking for *appellate* you will find it (in *The Cassell Concise English Dictionary*) on the page which begins with *apothecium* and ends with *appetence*. (NB. Other dictionaries will have alternative layouts.)

3. Match the words below with the correct pairs of entries. (NB: You will not need to use some pairs.) Do this as quickly as you can.

   a jurisdiction, b original, c dispute, d consumer, e adjudication, f wreck, g will, h illegitimate, i matrimonial, j stipendiary.

   A consummate - contend  
   B Stilton - stoccade  
   C wildebeest - wimple  
   D adherence - *ad libitum*  
   E ataxia - adhere  
   F stickle - stilt  
   G wicker-wild  
   H illegible - imagine  
   I dispossess - disseminate  
   J organs - ormolu  
   K junket - justify  
   L ignorant - illegal  
   M materia medica - matting  
   N wrap - wring
4. Complete the summary below with words from the list which follows; you may use a word more than once.

in addition, because, excess, formal, nevertheless, agree, informal, informality, access, although, more, less, permitted, may, formality, must, discouraged, disagree, should.

The arbitration scheme was set up (a) ................................ county courts were no longer fulfilling their purpose of providing (b) ........................ to ordinary people in a fairly (c) ........................ situation and without excessive (d) ..................... or cost. Small claims of up to £500 (e) .................. be heard by the scheme; larger claims (f) ............................ also be heard if both sides (g) .................... Parties (h) ..................... be represented by lawyers but this is (i) ............................Although rules are followed, the atmosphere is (j) ............................formal than in the county courts; (k) ..................... the procedure is said still to be very complex and to frighten many people.

5. Find out the names of the civil courts in your country. Set them out in a diagram, noting which courts are courts of first instance and which are appellate courts.
Legal exercises

6. George had agreed to sell his car to Nigel for £200. George has delivered the car but Nigel refuses to pay the money. George wishes to take legal action to enforce the contract. He seeks your advice on the following:

a To which courts may he apply to enforce the payment? b If he is dissatisfied with the result to which court(s) may he appeal?

7. Angela is seriously injured in a road accident caused by Percy's negligence. She estimates her damages to be £50,000.

a In which court would the legal action take place? b If her action is unsuccessful, to which courts may she appeal?

Language point - compound nouns

8. In formal and academic English you often find quite long phrases composed of several nouns.
   a 'a one court entry system'
   b 'a new case flow management system'
   c 'leave entitlements'
   d 'a new in-court arbitration system'
   e 'the new small claims arbitration limit'

If you have any difficulty understanding these phrases, try starting with the article (a/the) and the first adjective (e.g. 'new') and then the I noun; after that read the next to last noun and so on. For example becomes:

'a new system (of) management (of the) flow (of) case(s)'

English compound nouns are constructed 'backwards' in contrast to some other languages. If you look at e you will realise that the second adjective belongs to the first noun, thus:

'the new limit (for the) arbitration (of) small claims'

9. Now try a, c and d.
Discussion

10. a. Who can start criminal proceedings?

h. In general anyone may start criminal proceedings

Vocabulary

11. In the preceding extract there are several verb + noun groups (e.g. to investigate a case). These expressions are commonly used in legal texts and it is useful to learn each verb and noun as a pair. To help you to do this, try the following exercise.

Match the following verbs with appropriate nouns from the list which follows:

a to bring ..................
b to instigate .................
c to institute ................
d to give .....................
e to conduct ..................
f to prefer ...................
g to remedy ..................
h to punish ..................
i to commit ..................

proceedings, the prosecution, a prosecution, a wrong, action, an offence, a criminal, charges, evidence.

9. Answer briefly the following questions.

a What is a summary offence?

b Give an example,

c What is an indictable offence?

d Give an example.

e What are offences triable either way?

f Give examples.
Vocabulary

13. As in the last vocabulary exercise, match the following verbs with the appropriate nouns from the list below:

a to try ................
b to hear .................
c to reach ................
d to pass .................
e to impose............... 
f to conduct..............
g to assess............... 

a verdict, an enquiry, an offence, the facts, the evidence, a fine, sentence.

Research

14. Find out the names of the criminal courts in your country and make a diagram of them, noting which courts are courts of first instance and which ones are appellate courts.

Is there an independent body like the CPS in your country which is responsible for deciding which cases come to trial? If not, who is responsible for these decisions?

Legal exercises

15. Distinguish between the three types of criminal offence.
16. What is the role of the magistrates in trying each of these offences?
17. What are the respective roles of the judge and the jury in trying indictable offences in the Crown Court?
18. What are the advantages of the Crown Prosecution Service?
19. Distinguish between 'discharge' and 'acquittal'.
20. Mr Smith is arrested by the police on the suspicion of murdering Mr Jones.
   a What factors will be taken into account when deciding whether to prosecute him?
   b What events will follow if the decision is taken to prosecute him?
21. Mrs Brown is charged with theft before the magistrates’ court.
   a Before which courts may she be tried?
   b If she is found guilty, to which courts may she appeal?
22. Think about the following questions:

a What is the purpose of tribunals?

b Why has there been a rapid growth in the use of tribunals over recent years?

c Why do you think that the writer believes that tribunals are the most important courts in the country for the ordinary citizen?

Vocabulary review

Below are three different exercises to help you remember some of the vocabulary.

15. Complete the table below:

<table>
<thead>
<tr>
<th>Verb</th>
<th>Noun</th>
<th>Adjective</th>
</tr>
</thead>
<tbody>
<tr>
<td>arbitrate</td>
<td>a..................</td>
<td>X</td>
</tr>
<tr>
<td></td>
<td>b..................</td>
<td></td>
</tr>
<tr>
<td>c............</td>
<td>claimant</td>
<td>X</td>
</tr>
<tr>
<td></td>
<td>d..................</td>
<td></td>
</tr>
<tr>
<td>e.............</td>
<td>f..............</td>
<td>X</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>adjudication</td>
<td>administrator</td>
<td>l...........</td>
</tr>
<tr>
<td></td>
<td>h..............</td>
<td></td>
</tr>
<tr>
<td>j.............</td>
<td>k..............</td>
<td>l...........</td>
</tr>
</tbody>
</table>

16. In Chapter 3 four common 'negative' prefixes were practised (un-, in-, j1-, im-). Three other negative affixes are -less, e.g. hopeless, dis-, e.g. dissatisfied, and mis-, e.g. misread (= read inaccurately). Try and use the correct affix to form opposites of the words below. In some cases you will have to make other changes.

a useful          d agree
b conduct         e colourful
c encourage       f persuade
17. Complete the sentences below using one or two words:

a. The claim ___________ £5,000 (i.e. was for more than £5,000).

b. A person who appeals is called ________________.

c. Money which is owed is called ________________.

d. __ __ __ has a similar meaning to compulsory.

e. A ___________ is a person involved in a civil case.

f. A ___________ magistrate is paid, whereas a ______________ magistrate is not.

g. Minor motoring offences are ________________ offences but murder is ____________ offence.

Research

18. What facilities for the adjudication of disputes outside the formal court system are available in your country?

Legal exercises

19. Choose two teams from your group to debate the following proposition: The civil courts in the English legal system do not provide an adequate means of adjudication in the majority of disputes.'

Follow the instructions for the preparation and performance of the debate which are provided at the end of Chapter 2. You will need to reread carefully the sections in this chapter on the civil courts, tribunals and arbitration. The relevant issues are:

a. The aims of the civil justice system, 
b. The existing machinery of the system,  c. How adequate is it for the majority of disputes? 
d. Will the reforms contained in the Courts and Legal Services Act improve the system?

If you are working on your own, prepare a written argument for each side of the debate taking into account the preceding points.
References

Russell & Locke (2001) *English Law and Language* Cassell

Nazario (1990) *Street Law* West