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КАФЕДРА ИНОСТРАННЫХ ЯЗЫКОВ

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HISTORY OF LAW

**Для индивидуального чтения
по юридическому английскому**

Учебно-методическое пособие



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Настоящее пособие для индивидуального чтения по юридическому английскому языку предназначено для студентов юридических факультетов. Каждый раздел пособия включает несколько нехудожественных текстов, упражнения на проверку их понимания и закрепление новой лексики. Пособие помогает тщательно прорабатывать каждую тему как самостоятельно, так и во время групповых аудиторных занятий. Кроме того, пособие может быть полезно широкому кругу лиц, изучающих юридический английский язык.

Для студентов и слушателей программ высшего профессионального образования.

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PART I. HISTORY OF ANCIENT LAW

TEXT 1 (30,000 SIGNS)

Read and translate the text.

HISTORY OF CIVIL LAW IN ROME

Let us proceed now to the people who in the development of law stand pre-eminent among all the nations in all the annals of time, and who have devised the most perfect legal system which the world has ever known. I refer, of course, to the Romans, the conquerors of the world not so much by the power of their arms as by the immortal force of their great jurisprudence.

The origin of the great city, like most origins, is enveloped in myth and fable. Its own Livy, and the learned Greek Dionysius of Halicarnassus, the worthy fellow-countryman of Herodotus, both of whom flourished in the age of Augustus, and both of whom had access to records and writings now lost to us, have written the history of Rome, with the utmost impartiality and an earnest desire to elucidate the truth. They give us the myth and the legend, as well as the authenticated facts; and the sincerity of both narratives is beyond question. Cicero and Varro also have given us interesting glimpses into the early history of Rome; and their references to Roman institutions and the Roman laws are most valuable to us.

It would appear that about the year B.C. 753 the foundations of Rome were laid by an adventurer, who is known to us by the name of Romulus. He is supposed to have come from the town of Alba Langa, on the Alban Hills, some fifteen miles or more to the southeast of Rome; but there is some reason to suspect that he may in fact have been a Greek from some of the Greek cities of the Campanian coast or of Magna Graecia, on the south shore of Italy. The historians of Rome, and the Romans themselves, did not hesitate to assert that their ancestors, the first founders of their city, were principally fugitives from justice, thieves, robbers, and outlaws from the neighboring

regions, who found the atmosphere of their own previous places of residence uncongenial in view of the exigencies of their criminal laws.

In fact, the Romans themselves seem to have rather exaggerated than extenuated the absence of civic virtue in the progenitors of their race. The truth would seem to be that Rome was originally a border settlement on the confines of the territories of three ancient Italian states, Latium, Etruria, and Sabinia; that three of the seven hills on which the subsequent great city was built had been long occupied, centuries perhaps before the reputed era of Romulus, by three little villages, one of Latin, one of Etrurian, and one of Sabine origin; that the adventurer, known in legend by the name of Romulus, combined the three villages into one town or municipality; and that he offered inducements to other adventurers and strenuous men like himself to settle in the place. Many of these newcomers, and no doubt some of the older residents too, were men who had left their previous abiding places for the good of their country, men perhaps with many aliases and little principle, men with a past who preferred to leave that past behind them - just such men, in fact, as by their restless energy and enterprise, in the days now happily past, built up some of our own frontier settlements, and became the founders of thriving cities and even of great commonwealths.

Three great periods are noted in the history of Rome — the monarchical, lasting 244 years, from B.C. 753 to B.C. 509; the republican, lasting 478 years, which was nearly double the monarchical, or from B.C. 509 to B.C. 31; and the imperial, which was for 507 years, a little longer than the republican, from B.C. 31 to A.D. 476. The second of these, the republican period, was that of true Roman greatness and of true Roman development in all that made Rome great. The first was the period of infancy and formation; the third of decay and downfall.

The monarchical period is in history usually filled in with the names of seven kings — six besides Romulus, who, singularly enough, were, with some degree of regularity, alternately of Latin, Sabine, and Etrurian race. There were probably many more than seven; but these seven must now stand for all, we refer to them here, because two of them were noted lawgivers, who sought with much industry to fashion and formulate the institutions of the growing city — for city it was, rather than a state, and such it practically remained during the whole monarchical period and for more than a century afterwards. It was merely a municipality, with a small surrounding territory, not much larger than the District of Columbia. The cities of Greece were all of the same character; and the development of Rome was practically not different from that of the Grecian cities, which were all independent republics.

Numa, the second King, and set down in the legends as the immediate successor of Romulus by election, was of Sabine race, and was the first and original legislator of Rome. He was called upon to organize what Romulus had aggregated. There is a pretty story to which the historian Livy has not hesitated to give currency, without vouching for its truth, that Numa derived his inspiration from converse with the nymph Egeria, one of those lovely spirits, creation of classical fancy, not human and yet not wholly divine, and that he often retired to confer with her in her home in some sequestered vale among the Sabine Hills. We are not required to believe the story, notwithstanding that it may be made more credible, if we regard Egeria, who is never elsewhere mentioned in the classical mythology, as being more of human mold than other nymphs of the age of fable. It is pleasant to think that a fascinating woman may have contributed largely to the building of the Roman State; for woman had much to do with its downfall. But history or legend does not tell us what laws the fair Egeria inspired, nor indeed what laws Numa established. We are only told that they were wise, and that Numa acted with consummate wisdom in formulating the institutions of the infant city. He bore the same relation to after ages in Rome that Alfred the Great and Edward the Confessor did to the days of the Normans and Plantagenets in England; and his laws were as much in demand in Roman times as were those of Edward the Confessor under the Norman Kings of England.

The sixth king Servius Tullius was also quite active as a lawgiver, and in shaping the institutions of the city; and the form which he gave to these institutions would seem to have been perpetuated for many centuries. The two Tarquins, the fifth and seventh in the ordinary list of the Kings of Rome, also left a deep impression on the constitution of the Roman state. But to inquire specifically what these several rulers did in the way of legislation, would be a problem rather for the antiquarian than for the student of law, even if we could ascertain it to our satisfaction, which is exceedingly doubtful. For the present it will suffice for us to know that, during the monarchical period of the existence of the Roman state, the peculiar organization of the civil polity of Rome became crystallized into the permanent form which it seems substantially to have retained for many ages.

From the earliest days of Rome we find a distinction of two classes recognized, the patricians and the plebeians. How far this distinction was due to conquest, is not quite apparent. Livy intimates that the plebeians constituted the part of the population which was removed to Rome from some of the towns of Latium that had been conquered by Ancus Martius, one of the warrior kings. At all events, the fact is that the patricians comprised what

may be called “the first families,” that is, the early settlers of Rome; and that the subsequent accessions received the name of plebeians. The two classes, it may be well to remember, did not receive their several appellations in consequence of any difference of the social order in the way of birth and education, as might be supposed. On the contrary, our meanings for the terms patrician and plebian are the result of the Roman classification. In other words, the classification led to the subsequent meanings, not the significance of the words, or the qualifications for which the words stood, to the classification. And this is a very important distinction to be borne in mind in our consideration of Roman institutions and the Roman History.

The Comitia Curiata and the Comitia Centuriata

The patricians were the earlier settlers and their descendants. They claimed for themselves rights and privileges, which they did not allow to the more recent accessions to the population, the plebeians. Both were free-men; but the patricians constituted themselves into a kind of aristocracy which sought to control the state, and did in fact generally succeed in controlling its policy. King Servius Tullius, the sixth monarch, who has already been mentioned, would seem to have effected a very radical change in the social and governmental organization of the city in his time by enlarging the power of the plebeians and giving them a greater voice than they had previously possessed in the government of the state. But, notwithstanding this, the line between the two classes was always sharply drawn; it was to some extent as well as in some others, the constitution of the Roman state was singularly complex, and indeed to our modern understanding somewhat obscure. There were the Comitia Curiata and the Comitia Centuriata.

The Comitia Curiata was the original Roman Assembly, composed of the first populus or people of Rome, the patricians, who were divided into thirty curiae, or tribes, ten for each of the three original grand divisions. Voting in the Comitia Curiata, or Tribal Assembly, as we may perhaps call it, was by curiae or tribes, as units, each tribe having one vote, and that vote determined by a majority of the votes of the individual members of the curia. The franchise of the Comitia Curiata, as indicated, was restricted to the patricians. The plebeians had no voice in it. The Comitia Centuriata, in which the plebeians had a voice, was established, it is said, by King Servius Tullius, early reformer of the Roman state, and who, by reason of his own rather obscure birth and for other considerations, was disposed to protect the plebs or plebeians, and to secure political rights for them. The term Co-

mitia Centuriata has scarcely a corresponding word in English. The literal meaning is the Assembly of the Centuries. For the purpose of its establishment the whole people of Rome, the *populus* and the *plebs*, the patricians and the plebeians alike, were divided, on the basis of the amount of property owned by them, into five classes, according to Livy, or into six classes, according to Dionysius of Halicarnassus, which again were subdivided into 193 centuries, or groups of one hundred each, *centum* meaning one hundred, so called because originally, as it is stated, each group was actually composed of one hundred persons.

Possibly this represented the actual population of Rome at the time the institution was established. Afterwards, of course, although the name was always retained, the membership of the several groups or centuries, so far as number was concerned, necessarily became indefinite. Every Roman citizen, patrician and plebeian alike, was entitled to participate in the *Comitia Centuriata*. The voting in it was by classes and by centuries — the first class being called first, and the others in their order. Each century had one vote, determined by the majority of its members. A majority of the centuries, being ninety-seven, was required for the passage of any proposed measure. The division into five or six classes, as the case may have been, was important only in the fact that the classes first called to vote might carry a measure without the necessity of calling upon the remaining classes; and the influence of the wealthier classes therefore became predominant. The result was either directly or indirectly that the power of the patricians always remained the dominant factor in the Roman commonwealth.

The *Comitia Centuriata* became the true General Assembly of the Roman people. It was the body which enacted laws, elected the great officers of the state, the consuls and praetors, and had the final jurisdiction in all criminal cases of a capital nature. The *Comitia Curiata* had at first a veto power over the determinations of the *Comitia Centuriata*, which in course of time ceased to have practical importance and became a mere formality; and some ratification on the part of the Senate was required to give effect to the acts of the *Comitia Centuriata*, which, however, was never refused. The organization both of the *Comitia Curiata* and of the *Comitia Centuriata* was retained in Rome throughout the whole period of the Republic; and notwithstanding that all power became vested in the *Comitia Centuriata*, the other assembly continued to possess many rights and privileges of a sovereign character, especially in matters of a religious nature, down to the end of Roman independence.

There was yet another general assembly of the Roman people, designated as the *Comitia Tributa*, or the Tribal Assembly or Assembly of the

Tribes, as we may translate the words, wherein the people voted by tribes and a majority of the members of any tribe determined the vote of the tribe. But the term tribe here has no reference, it would seem, to the original division of the Roman people into the three tribes, Latin, Etrurian, and Samnite, whereof Romulus formed his combination. This tribal division was a division into wards or districts for the purpose of local administration. In these ward, or district divisions, the plebeians usually had a majority; and by their combination they sometimes found it expedient to enact measures to which were given the name of *Plebiscita* — Resolutions of the Commons we might call them — which the patricians and the Senate were frequently compelled to accept. The acts of the Senate were called *Senatus-Consulta*, or Senatorial Decrees, as those of the *Comitia Tributa* were designated as *plebiscita*. Neither were laws in the strict sense; although directly or indirectly they acquired the force of law. The laws of Rome properly so called, known as *leges* or laws, emanated directly from the *Comitia Centuriata*, and they were binding on the Senate and people alike.

Roman twelve tables of law (451–450 B.C.)

Cicero, *De Oratore*, I.44: Though all the world exclaim against me, I will say what I think: that single little book of the Twelve Tables, if anyone look to the fountains and sources of laws, seems to me, assuredly, to surpass the libraries of all the philosophers, both in weight of authority, and in plenitude of utility.

In Rome lived a learned Greek exile from the famous city of Ephesus in Asia Minor, a man of philosophic turn of mind by the name of Hermodorus. He advised the Romans, by whom it appears he was held in high esteem, to organize a commission of capable men and to send them to Greece to study the laws of Sparta, Crete and Athens, and especially the legislation of Solon; and thereupon to prepare a code for Rome based upon the existing law and the experience which the commissioners might obtain from the operation of the systems of the several Hellenic states. The suggestion was readily accepted. It was a peculiarity of the Roman character that the people never believed that they possessed all the virtues and that nothing was to be learned from the experience of other nations. On the contrary, the Romans were always ready and willing to accept anything from other nations, and especially from Greece, which was deemed to be advantageous and superior to what they had themselves. Even in the days of their greatest greatness they were generally disposed to respect the usages and customs of the peoples

whom they incorporated into their vast empire, and to allow them the greatest possible degree of local self-government consistent with the supremacy of the Roman authority. And this was by no means the least of the causes which induced the permanence of their widespread dominion.

The commission was organized, and went to Greece. This was fifty-five years after the expulsion of the Tarquins; and it was the age of Cimon and Pericles in Athens. In other words, it was the culminating period of Hellenic splendor and civilization. What the commissioners brought back with them is perhaps not quite apparent; but the result certainly showed the influence of the legislation of Solon. A code of law was promulgated in the year B.C. 451, which was designated by the name of the Law of the Ten Tables, so called because it was inscribed upon ten tablets of brass set up for the public inspection on the walls of the Temple of Jupiter. Two other tables were soon afterwards added; and the Code was then known by the name of the Law of the Twelve Tables, and so continued to be known to after generations. It was the foundation upon which all subsequent Roman law was built; and it was the work to a very considerable extent of Hermodorus, the learned Greek from Ephesus. It was not, however, a Greek code transferred to Rome, but in the main a codification of existing Roman law with such addition and modification as the experience of the Hellenic states, especially that of Athens, had shown to be beneficial.

Only fragmentary portions of the Laws of the Twelve Tables have been transmitted to us; and they are not of themselves sufficient to enable us to form any satisfactory estimate of the compilation as a whole. But it is much that they received the intelligent commendation of so true a critic and so honest a man as Cicero in his work *De Republica*, that of the Greek historian of Rome, Dionysius of Halicarnassus, and that of the other great Greek historian of almost the same period, Diodorus Siculus. From these writers, and from the Roman law writers who wrote commentaries upon them, we learn that the Laws of the Twelve Tables did not constitute a complete code of law, such as we would now understand by that phrase, but rather enunciated a collection of legal maxims of universal application sufficient to support and sustain the fabric of the law that was built upon it by the later development.

The commentator Gaius, one of the greatest and most accomplished Roman writers on the subject of law, mentions two of the laws of the Twelve Tables, one of them concerning corporations or *collegia*, as they were called, and the other concerning boundaries, which he states were derived from the laws of Solon; and we may infer that there were others of similar origin. But the code, evidently proved to be an admirable basis for the magnificent superstructure that was reared upon it.

The rulers of Rome were a race of lawyers. We have referred to the various Comitia or General Assemblies of the Roman people, by which the sovereign power of the state was exerted. It was the Roman theory that all power was reposed in the sovereign people. As being merely a city, and therefore a state in which all the people could readily be congregated in town meeting, the Romans considered that the theory could be reduced to actual practice so far as the immediate government of the city itself was concerned, while the government of the provinces was left to the Senate, whose smaller number made it a more competent legislative assembly.

Consequently the General Assembly, known as the Comitia Centuriata, where the people voted by centuries, was not only the ultimate source of power in Rome, but likewise exercised the power in concrete cases; enacted laws, elected officers, directed the public policy, and sat as a supreme court of last resort in numerous cases of a judicial nature, especially those involving capital punishment. For the life of no Roman citizen could lawfully be taken except by the vote of his fellow-citizens convened in Comitia Centuriata; and even when the privilege of Roman citizenship was largely extended and was enjoyed by many of the provincial cities, those in possession of such right might appeal to the Comitia Centuriata at Rome, or subsequently to the Emperor or Emperor, when the Caesarian Revolution had transferred the judicial authority of the people to the all-powerful Emperor.

The twelve tables are the earliest attempt by the Romans to create a code of law; it is also the earliest (surviving) piece of literature coming from the Romans. In the midst of a perennial struggle for legal and social protection and civil rights between the privileged class (patricians) and the common people (plebeians) a commission of ten men (Decemviri) was appointed (ca. 455 B.C.) to draw up a code of law which would be binding on both parties and which the magistrates (the 2 consuls) would have to enforce impartially.

The commission produced enough statutes (most of them were already 'customary law' anyway) to fill ten tablets, but this attempt seems not to have been entirely satisfactory — especially to the plebeians. A second commission of ten was therefore appointed (450 B.C.) and two additional tablets were drawn up. The originals, said to have been inscribed on bronze, were probably destroyed when the Gauls sacked and burned Rome in the invasion of 387 B.C.

The Twelve Tables give the student of Roman culture a chance to look into the workings of a society which is still quite agrarian in outlook and operations, and in which the main bonds which hold the society together and

allow it to operate are: the clan (genos, gens), patronage (patron/client), and the inherent (and inherited) right of the patricians to leadership (in war, religion, law, and government).

Table I. Procedure: for courts and trials

1. If anyone summons a man before the magistrate, he must go. If the man summoned does not go, let the one summoning him call the bystanders to witness and then take him by force.

2. If he shirks or runs away, let the summoner lay hands on him.

3. If illness or old age is the hindrance, let the summoner provide a team. He need not provide a covered carriage with a pallet unless he chooses.

4. Let the protector of a landholder be a landholder; for one of the proletariat, let anyone that cares, be protector.

6-9. When the litigants settle their case by compromise, let the magistrate announce it. If they do not compromise, let them state each his own side of the case, in the comitium of the forum before noon. Afterwards let them talk it out together, while both are present. After noon, in case either party has failed to appear, let the magistrate pronounce judgment in favor of the one who is present. If both are present the trial may last until sunset but no later.

Table II. Trials, continued

2. He whose witness has failed to appear may summon him by loud calls before his house every third day.

Table III. Debt

1. One who has confessed a debt, or against whom judgment has been pronounced, shall have thirty days to pay it in. After that forcible seizure of his person is allowed. The creditor shall bring him before the magistrate. Unless he pays the amount of the judgment or some one in the presence of the magistrate interferes in his behalf as protector the creditor so shall take him home and fasten him in stocks or fetters. He shall fasten him with not less than fifteen pounds of weight or, if he chooses, with more. If the prisoner chooses, he may furnish his own food. If he does not, the creditor must give him a pound of meal daily; if he chooses he may give him more.

2. On the third market day let them divide his body among them. If they cut more or less than each one's share it shall be no crime

3. Against a foreigner the right in property shall be valid forever.

Table IV. Rights of fathers (paterfamilias) over the family

1. A dreadfully deformed child shall be quickly killed.
2. If a father sell his son three times, the son shall be free from his father.
3. As a man has provided in his will in regard to his money and the care of his property, so let it be binding. If he has no heir and dies intestate, let the nearest agnate have the inheritance. If there is no agnate, let the members of his gens have the inheritance.
5. A child born after ten months since the father's death will not be admitted into a legal inheritance.

Table V. Legal guardianship and inheritance laws

1. Females should remain in guardianship even when they have attained their majority.
7. If one is mad but has no guardian, the power over him and his money shall belong to his agnates and the members of his gens.

Table VI. Acquisition and possession

1. When one makes a bond and a conveyance of property, as he has made formal declaration so let it be binding.
3. A beam that is built into a house or a vineyard trellis one may not take from its place.
5. Usucapio of movable things requires one year's possession for its completion; but usucapio of an estate and buildings two years.
6. Any woman who does not wish to be subjected in this manner to the hand of her husband should be absent three nights in succession every year, and so interrupt the usucapio of each year.

Table VII. Land rights

1. Let them keep the road in order. If they have not paved it, a man may drive his team where he likes.
9. Should a tree on a neighbor's farm be bent crooked by the wind and lean over your farm, you may take legal action for removal of that tree.
10. A man might gather up fruit that was falling down onto another man's farm.

Table VIII. Torts and delicts (Laws of injury)

2. If one has maimed a limb and does not compromise with the injured person, let there be retaliation. If one has broken a bone of a freeman with

his hand or with a cudgel, let him pay a penalty of three hundred coins. If he has broken the bone of a slave, let him have one hundred and fifty coins. If one is guilty of insult, the penalty shall be twenty-five coins.

3. If one is slain while committing theft by night, he is rightly slain.

4. If a patron shall have devised any deceit against his client, let him be accursed.

5. If one shall permit himself to be summoned as a witness, or has been a weigher, if he does not give his testimony, let him be noted as dishonest and incapable of acting again as witness.

10. Any person who destroys by burning any building or heap of corn deposited alongside a house shall be bound, scourged, and put to death by burning at the stake provided that he has committed the said misdeed with malice aforethought; but if he shall have committed it by accident, that is, by negligence, it is ordained that he repair the damage or, if he be too poor to be competent for such punishment, he shall receive a lighter punishment.

12. If the theft has been done by night, if the owner kills the thief, the thief shall be held to be lawfully killed.

13. It is unlawful for a thief to be killed by day ... unless he defends himself with a weapon; even though he has come with a weapon, unless he shall use the weapon and fight back, you shall not kill him. And even if he resists, first call out so that someone may hear and come up.

23. A person who had been found guilty of giving false witness shall be hurled down from the Tarpeian Rock.

26. No person shall hold meetings by night in the city.

Table IX. Public law

4. The penalty shall be capital for a judge or arbiter legally appointed who has been found guilty of receiving a bribe for giving a decision.

5. Treason: he who shall have roused up a public enemy or handed over a citizen to a public enemy must suffer capital punishment.

6. Putting to death of any man, whosoever he might be unconvicted is forbidden.

Table X. Sacred law

1. None is to bury or burn a corpse in the city.

3. The women shall not tear their faces nor wail on account of the funeral.

5. If one obtains a crown himself, or if his chattel does so because of his honor and valor, if it is placed on his head, or the head of his parents, it shall be no crime.

Table XI. Supplement I

1. Marriages should not take place between plebeians and patricians.

Table XII. Supplement II

2. If a slave shall have committed theft or done damage with his master's knowledge, the action for damages is in the slave's name.
5. Whatever the people had last ordained should be held as binding by law.

Since the days of the Law of the Twelve Tables, developed during the early republic, the Roman legal system was characterized by a formalism that lasted for more than 1.000 years. Early Roman law was drawn from custom and statutes, but later during the times of the empire, the emperors asserted their authority as the ultimate source of law. Their edicts, judgments, administrative instructions, and responses to petitions were all collected with the comments of legal scholars.

"What pleases the emperor has the force of law." As the law and scholarly commentaries on it expanded, the need grew to codify and to regularize conflicting opinions. The basis for Roman law was the idea that the exact form, not the intention, of words or of actions produced legal consequences. Romans recognized that there are witnesses to actions and words, but not to intentions. Roman civil law allowed great flexibility in adopting new ideas or extending legal principles in the complex environment of the empire. Without replacing older laws, the Romans developed alternative procedures that allowed greater fairness. For example, a Roman was entitled by law to make a will as he wished, but, if he did not leave his children at least 25 percent of his property, the magistrate would grant them an action to have the will declared invalid as an "irresponsible testament." Instead of simply changing the law to avoid confusion, the Romans preferred to humanize a rigid system by flexible adaptation. It was not until much later in the 6th century AD that the emperor Justinian I, who ruled over the Byzantine Empire in the east, began to publish a comprehensive code of laws, collectively known as the *Corpus Juris Civilis*, but more familiarly as the Justinian Code.

GLOSSARY

1. abiding place
2. accept (v)
3. accession (n)

4. accurse of sth (v)
5. acquire the force of law
6. acquisition (n)
7. aggregate (v)
8. alias (adv)
9. allow greater fairness
10. appellation (n)
11. binding upon (both parties) (adj)
12. bond (n)
13. boundary (n)
14. by negligence
15. bystander (n)
16. capital punishment
17. citizenship (n)
18. civil polity
19. civil rights
20. claim sth for oneself
21. commendation (n)
22. commit theft
23. confess a debt
24. congregate (v)
25. consul (n)
26. conveyance of property
27. creditor (n)
28. criminal case of a capital nature
29. currency (n)
30. customary law
31. delict (n)
32. derive one's inspiration from sth
33. determine by a majority of the votes
34. devise a deceit
35. die intestate
36. dominion (n)
37. downfall (n)
38. edict (n)
39. elect (v)
40. enact a law
41. enlarge power
42. exert one's power
43. exigency (n)

44. expedient (adj)
45. extend legal principles
46. extenuate (v)
47. find sb guilty of giving false witness
48. forcible seizure
49. franchise (n)
50. free-man (n)
51. fugitive from justice
52. give one's testimony
53. heir (n)
54. hindrance (n)
55. hold in high esteem
56. immediate successor
57. impartial (adj)
58. imperial (adj)
59. infer (v)
60. inherent right
61. injured person
62. inscribe (v)
63. intimate (v)
64. landholder (n)
65. legislation (n)
66. legislator (n)
67. local self-government
68. magistrate (n)
69. make formal declaration
70. municipality (n)
71. nearest agnate
72. noted lawgiver
73. of philosophic turn of mind
74. offer an inducement
75. officer of the state
76. operation of the system
77. patronage (n)
78. pay a penalty
79. possession (n)
80. privilege (n)
81. progenitor (n)
82. promulgate (v)
83. pronounce judgment in favor of sb

84. ratify (v)
85. receive a bribe for sth
86. reformer (n)
87. regularize conflicting opinions
88. remain in guardianship
89. republican (n)
90. right (n)
91. robber (n)
92. secure political rights
93. shirking (adj)
94. social order
95. sovereign (n)
96. stand pre-eminent
97. strenuous (adj)
98. take sb by force
99. thief (n)
100. thriving (adj)
101. tort (n)
102. transmit (v)
103. Tribal Assembly
104. valid (adj)
105. vest power
106. vote (v)
107. vouch (v)
108. will (n)
109. witness (v)

TASKS

1. Answer the questions to the text.

- a) What names are mentioned in the text in connection with writing down the early history of Rome?
- b) Who are believed to be the first founders of their city of Rome, the Romans' ancestors?
- c) What are three great periods noted in the history of Rome?
- d) Who are the first and original legislators of Rome?
- e) What are the two classes recognized in Rome?
- f) What was the original Roman Assembly? Describe the voting procedure in the Comitia Curiata.

g) Were both the patricians and the plebeians entitled to participate in the Comitia Centuriata? What was the voting process in Comitia Centuriata?

h) Which Roman body enacted laws, elected great officers of the state, consuls and praetors, and had the final jurisdiction in all criminal cases of a capital nature?

i) What is Hermodorus famous for?

j) Why was the Law of the Ten Tables later called the Law of the Twelve Tables?

k) Who had to impartially enforce the Law of the Twelve Tables?

l) Was it legal according to the Law of the Twelve Tables to take a man reluctant to come to court when summoned by force?

m) Was it possible for a father to sell his son?

n) Can you give any example of a Roman law allowing lawful killing of a person?

o) According to the Law of the Ten Tables, what was to be done to a person found guilty of giving false testimony?

p) What shall be the penalty for a judge who has been found guilty of receiving a bribe for giving a decision?

q) According to the Roman law, did the intention produce legal consequences?

r) When and by whom was the first comprehensive code of laws published?

2. Define whether the statements are true (T) or false (F).

a) Romulus laid the city of Rome at about the year B.C. 753.

b) What Romulus actually did was combining the three villages on the seven hills into one town or municipality offering inducements to other adventurers and strenuous men like himself to settle in the place.

c) The imperial period was that of true Roman greatness and of true Roman development in all that made Rome great.

d) During the monarchical period of the existence of the Roman state, the peculiar organization of the civil polity of Rome became crystallized into the permanent form which it seems substantially to have retained for many ages.

e) The patricians and the plebeians received their appellations in consequence of the difference of the social order in the way of birth and education.

f) The patricians claimed for themselves rights and privileges which they did not allow to the more recent accessions to the population, the plebeians.

g) The plebeians had right to vote in The Comitia Curiata.

h) Besides Comitia Curiata and Comitia Centuriata there was another general assembly of the Roman people, designated as the Comitia Tributa.

i) The Twelve Tables constituted the first complete Roman code of law.

j) It was the Roman theory that all power was reposed in the sovereign people.

k) Under the Twelve Tables the trial could last until sunset and no later.

l) Debts were to be paid within fifty days.

m) According to the Twelve Tables if a man dies intestate having no heir, the nearest agnate has the inheritance.

n) A person who destroys by burning any building shall be put to death by burning both in case he has committed the said misdeed by negligence and with malice aforethought.

o) If a thief has a weapon with him, then he can be legally killed.

p) Marriages should not take place between plebeians and patricians.

q) During the times of the empire, the emperors asserted their authority as the ultimate source of law.

r) Roman civil law allowed great flexibility in adopting new ideas or extending legal principles in the complex environment of the empire.

3. Make up a plan of the text for detailed retelling, provide it with key words and phrases. Use it to practice retelling.

4. Write a summary of the text (about 3000 signs).

5. Match the words and expressions to their Russian equivalents.

- | | |
|---|--|
| 1) codification of existing Roman law | a) умереть, не оставив завещания |
| 2) to enunciate a collection of legal maxims of universal application | b) излагать свод юридических максим повсеместного применения |
| 3) to support and sustain the fabric of the law | c) выбирать должностных лиц |
| 4) to exert one's power | d) сведение в кодекс существующего римского права |
| 5) all power is reposed in sth | e) вся власть покоится на чем-л. |
| 6) competent legislative assembly | f) компетентное законодательное собрание |
| 7) to elect officers | g) поддерживать и защищать устройство закона |
| 8) to direct the public policy | h) неотъемлемое право |
| 9) capital punishment | i) высшая мера наказания |
| 10) inherent right | j) вершить государственную политику |
| 11) to die intestate | k) проявлять свою власть |

6. Write the words defined below.

- a) a false name, usually used by a criminal
- b) someone who believes in government by elected representatives only, with no king or queen
- c) relating to an empire or to the person who rules it
- d) complete loss of your money, moral standards, social position etc, or the sudden failure of an organization
- e) someone who has the power to make laws or belongs to an institution that makes laws
- f) a town, city, or other small area, which has its own government to make decisions about local affairs, or the officials in that government
- g) to show by marking a paper, raising your hand etc. which person you want to elect or whether you support a particular plan
- h) the legal right to vote in your country's elections
- i) someone who works to improve a social or political system
- j) to make a written agreement official by signing it
- k) having the highest power in a country
- l) to spread an idea or belief to as many people as possible, to make a new law come into effect by announcing it officially
- m) an official statement praising someone, especially someone who has been brave or very successful
- n) the support, especially financial support, that is given to an organization or activity by a patron, a system by which someone in a powerful position gives people help or important jobs in return for their support

7. Find the synonyms to the following words in the text.

- a) nationality
- b) justice of the peace
- c) ambassador
- d) succession
- e) fair
- f) ancestor
- g) outlaw (2)
- h) onlooker
- i) urgency
- j) induce
- k) gather
- l) close friend
- m) name / title
- n) law

- o) convene
- p) pass
- q) writ

8. Find the antonyms to the following words in the text.

- a) inexpedient
- b) refuse
- c) debtor
- d) invalid
- e) strengthen
- f) passive

9. Fill in the gaps with the most suitable words given below.

inscribed, valid, congregate, bystanders, heir, will, infer, expedient, hindrance, shirking, vouch, witnessed, dominion, boundaries, legislation, currency

- a) Several innocent were killed by the blast.
- b) The idea was common in European political life.
- c) "Where were you on the night of the murder?" "In bed with flu. My wife can for that."
- d) This solution is politically but may well cause long-term problems.
- e) This is a very important piece of
- f) The King held over a vast area.
- g) The team's name is on the base of the trophy.
- h) National are becoming increasingly meaningless in the global economy.
- i) From the evidence we can that the victim knew her killer.
- j) Crowds began to to hear the President's speech.
- k) Several residents claim to have the attack.
- l) The floods have been a major to relief efforts.
- m) He was fired for
- n) Your return ticket is for three months.
- o) Have you made a/an yet?
- p) Jonson was his political as leader of the Nationalist Party.

10. Explain the following words and phrases in English. Use an English-English dictionary if necessary.

- a) Tribal Assembly
- b) thriving city

- c) to form estimate
- d) civil rights
- e) customary law
- f) to pronounce judgment in favor of sb
- g) to confess a debt
- h) forcible seizure
- i) the nearest agnate
- j) to remain in guardianship
- k) acquisition and possession
- l) to make a bond and a conveyance of property
- m) to make formal declaration
- n) Torts and delicts
- o) to pay a penalty
- p) to commit theft
- q) to be accursed of sth
- r) to give one's testimony
- s) by negligence

11. Translate into English paying attention to the underlined words and expressions.

a) Близкие родственники умершего имеют неоспоримое превосходство при наследовании.

b) Укрывающийся от правосудия человек не может претендовать на государственный пост.

c) Вы обязаны указать свое место жительства, чтобы получить визу.

d) Наполеон был не только полководцем, но и выдающимся законодателем.

e) Непосредственным преемником президента в случае его смерти, болезни или отставки является вице-президент.

f) Отцы-основатели при написании конституции черпали вдохновение в Билле о правах.

g) Гражданская форма правления является идеальной далеко не для всех государств мира.

h) Полиция призвана обеспечивать общественный строй и порядок.

i) Многие нелегальные мигранты из Африки требуют для себя права и привилегии в Европейском Союзе.

j) В 1924 году индейцы стали полноправными гражданами США.

k) Увеличение срока пребывания у власти автоматически увеличивает власть.

l) Правящая партия определяется большинством голосов на парламентских выборах.

m) Поправки к конституции гарантируют политические права всем жителям государства независимо от пола, расы и национальности.

n) На прошлой неделе был принят новый закон об образовании.

o) Некоторые люди полагают, что выбирать высшие должностные лица должны квалифицированные специалисты.

p) Против него было возбуждено тяжкое уголовное дело.

q) Президент наделяется властью путем всеобщего тайного голосования.

r) Проект приобретает силу закона только после нескольких чтений и одобрения.

s) Договор был обязательным для подписания для обеих сторон.

t) Он был юристом и политиком, человеком философского склада ума.

u) Жители азиатских стран обычно питают большое уважение к своим правительствам.

v) Функционирование государственной системы напрямую зависит от политической грамотности граждан.

w) Органы местного самоуправления нуждаются в серьезной реформе.

12. Render the following text into English using the active vocabulary.

Правовое положение римских граждан

Приобретение римского гражданства. Римское гражданство приобреталось:

- путем рождения от римских граждан;
- вследствие усыновления римским гражданином иностранца;
- в результате освобождения из рабства;
- путем предоставления римского гражданства отдельным лицам, общинам, городам или провинциям.

Лица, рожденные от римских граждан, относились к категории свободнорожденных римских граждан. То есть ребенок получал римское гражданство, если он был рожден в браке между римскими гражданами либо рожден вне брака римлянкой. Здесь действовало правило «ребенок, рожденный в браке, следовал состоянию отца, а вне брака — состоянию матери». Однако с I в. н. э. наметился отход от последнего правила. Было установлено, что ребенок, рожденный вне брака римской гражданкой, не признавался римским гражданином,

если его отцом был неримлянин.

Свободнорожденные римские граждане обладали полной правоспособностью.

Иностранцы, усыновленные полноправными римскими гражданами в соответствии со специально закрепленной в частном праве процедурой, приобретали полную правоспособность. По своему правовому положению они приравнивались к свободнорожденным римским гражданам.

Лица, освобожденные на волю из рабства — вольноотпущенники, были ограничены в области частного права, и их правовое положение отличалось от положения свободнорожденных римских граждан.

В силу непосредственных предписаний публичного права римское гражданство могло быть предоставлено:

- 1) отдельным лицам за личные заслуги перед римским народом;
- 2) жителям отдельных общин, городов, провинций;
- 3) представителям отдельных сословий.

Ограничения правового положения римских граждан. В силу различных оснований граждане Рима могли быть в полном объеме или частично лишены правоспособности и ограничены в правах.

Полное или ограниченное лишение правоспособности римских граждан могло иметь место:

- вследствие естественной смерти гражданина;
- при утрате отдельных статусов (статуса свободы, статуса гражданства или семейного статуса) лица как необходимых условий правоспособности;
- при умалении гражданской чести;
- по другим основаниям.

Естественная смерть прекращала все права умершего и открывала наследство. Однако с момента открытия наследства до его принятия допускалась фикция, что правоспособность умершего продолжается до тех пор, пока не определены наследники и они не получили наследство.

Ограничение правоспособности при утрате отдельных статусов лица (*capitis deminutio*). Римское право различало три степени утраты правоспособности: максимальную (*capitis deminutio maxima*), среднюю (*capitis deminutio mediae*) и минимальную (*capitis deminutio minima*).

Максимальная утрата правоспособности имела место при утрате состояния свободы. С потерей статуса свободы лицо теряло состояние гражданства и семейное состояние. Это влекло полную потерю

правоспособности. Обстоятельствами, влекущими максимальную утрату правоспособности, являлись: пленение римлянина врагом, продажа римлянина в рабство, осуждение римлянина к смертной казни или на пожизненную работу в рудниках. Если взятый в плен возвращался в Рим, он вновь приобретал все права римского гражданина. В том случае, если он умирал в плену, по закону Корнелия все его имущество переходило наследникам. В случаях продажи гражданина в рабство, осуждения к смертной казни или на работу в рудниках восстановление правоспособности не предусматривалось.

Средняя утрата правоспособности влекла за собой потерю состояния гражданства и семейного состояния. При этом сохранялся статус свободы. Основаниями, влекущими данную степень утраты правоспособности, являлись переселение римского гражданина в латинскую или peregrinскую общину, присуждение к изгнанию из Рима (например, за переход к врагу) или к ссылке. Лица, утратившие статус гражданства, переходили в сферу действия права народов. Однако в последующем допускалось восстановление римского гражданства, если потеря его не была связана с осуждением.

Минимальная утрата правоспособности наступала при утрате семейного состояния (например, при вступлении женщины в брак, в результате чего она переходила под власть мужа).

Умаление гражданской чести. Наряду с *capitis deminutio* римское право ограничивало права лиц, чье поведение по общему мнению или согласно правовым нормам признавалось недопустимым. Это так называемое умаление гражданской чести (бесчестье). Формами умаления гражданской чести являлись: *instabilitas*, *infamia*, *turpitude*.

Instabilitas осуществлялась, когда участники или свидетели каких-либо сделок отказывались позднее подтвердить совершенные сделки. Таким лицам запрещалось выступать в качестве свидетелей, прибегать к помощи свидетелей, завещать имущество.

Infamia имела место:

- при осуждении за некоторые правонарушения, связанные с бесчестным поведением (ложным банкротством, недобросовестным опекунством и пр.);

- в результате осуждения по некоторым искам, предполагающим исключительную честность (из договора поручения, товарищества и др.);

- при нарушении норм брачно-семейного права (двоеженство, заключение брака вдовой ранее года после смерти мужа и т. п.).

Лица, признанные бесчестными по данным основаниям, не могли быть опекунами и представлять чьи-либо интересы в суде.

Turpitude осуществлялась в случае аморального поведения лиц, осуждаемых обществом (занятие проституцией, актерским искусством и т. п.). Такие лица также претерпевали ограничения в области частного права.

Умаление гражданской чести наступало по решению судебных и других государственных органов. Оно могло быть пожизненным или временным. Решение о восстановлении правового положения лица, как правило, принимал орган, наложивший бесчестье. Восстановление могло быть осуществлено также верховной властью (например, императорской) от имени римского народа.

Другие основания ограничения правоспособности. В Риме существовали ограничения правоспособности для отдельных категорий населения: женщин, детей, варваров, еретиков, евреев и колонов. Женщины и дети были ограничено правоспособными. Они относились к категории *alieni juris* и были лишены права выступать субъектами вещных и обязательственных отношений (*jus commercii*). Однако с классического периода за ними, правда, в ограниченном виде, было признано это право.

Варвары (чужеземцы), еретики, евреи с победой христианства были ограничены в правовом положении, особенно в наследственном праве. Ограничения были введены и для колонов. В частности, им было запрещено менять профессию и заключать браки с лицами других профессий.

TEXT 2 (30,000 SIGNS).

Read and translate the text.

LAW DEVELOPMENT IN EGYPT

On the banks of the Nile was located the third of the three great seats of primeval civilization. Egypt holds with Phoenicia and Babylonia the honor of radiating all the ancient civilization over the world. The philosophers and statesmen of Greece all sought in Egypt the source of most of their own institutions; and Roman Emperors resorted to Egypt for wisdom. Even in the days of Moses, Egypt was noted for its learning; and the Hebrew lawgiver did not hesitate to adopt several of its laws and institutions for his own country-

men. Solon studied deeply those laws and institutions before he promulgated his own code for Athens.

Under the influence of successive conquests and devastations, the Pharaonic civilization perished, as did that of Phoenicia and Babylonia. Memphis, Thebes, On and Tanis, the great cities of Egypt, fell, as did Tyre and Sidon and Babylon and Nineveh; and with them departed the glory of their great accomplishments, their arts and sciences, their language and their religion, their philosophy and their law. But the Egypt of the Pharaohs has left the most remarkable monuments of the world in its wonderful ruins.

Here everywhere have been found inscriptions in the language of the Pharaohs, which, long a puzzle, have during the course of the century just past been deciphered. From beneath the dust of ages papyri have been unearthed which tell us something of the lore of the ancient priesthood; and, although we are not yet able, and probably never will be able, to reconstruct the lost history of Egypt, we have learned enough to get some idea of the manners and customs, laws and institutions, which, even in their decay, elicited the admiration of Plato, Herodotus, and Diodorus Siculus. It is a singular thing, that, although we have greatly more copious monumental records of the ancient Egyptian civilization than we have of the civilization of Asshur and Babylon, yet the remnants which we have of Asshur and Babylon give us a far greater insight into their laws than the Egyptian records give us of the legislation of the Pharaohs. In Explanation of this it has been assumed by some that the civilization of Egypt was of a more primitive type than that of Asshur and Babylonia, and that the Egyptians were never a sea-faring people, and were always less enterprising than the cognate Hamite races of Babylonia. But this assumption is not supported by the known facts of history. The “wisdom of the Egyptians,” in which we are told that Moses was instructed, the fact that Egypt from its location on the Nile and the Red Sea and along the shores of the Mediterranean must necessarily have been a great sea-power, and upon the authority of Diodorus Siculus, at one time held the Empire of the Mediterranean (B.C. 787-734) and may have held it many times before, and finally the eminence reached by the Egyptians in the arts and sciences, and especially in philosophy, would indicate that they were equally proficient in legislation. Moreover, among their monarchs five are specifically mentioned by Diodorus as great legislators — Mnevis (the name which he gives the founder Menes), Sasychis, Sesoosis (the Sesostris of Herodotus), Boccharis, and Amasis — two of whom, Boccharis and Amasis, lived in the later days of the monarchy, and one of whom, at least, Boccharis the wise, as he was called, gained renown for the wisdom of the laws which he enacted.

Whatever may have been the cause, there are but few traces left of the legal system of ancient Egypt. The political organization of the country recognized a division into Upper, and Lower Egypt — in later times, into Upper, Middle, and Lower Egypt — and a subdivision of the whole country into thirty provinces designated as nomes. The Middle District is known to have comprised seven of these nomes, and therefore in the Greek times received the Greek name of Heptanomis or the Seven Nomes. In each nome and in the principal cities of the several nomes there were local judges; and there was also a great central court, composed of thirty judges, ten from each one of the three districts, or from their three principal cities, Thebes, Memphis, and On or Heliopolis (the City of the Sun). One of their number, we are told, was chosen or appointed president of the tribunal, and thereupon another was chosen from his city or district to fill the place left vacant by him, so that the number of judges, exclusive of the President or Chief Justice should always be kept at thirty. This would seem to indicate something like a selection of judges by some kind of electorate rather than by the monarch. All the judges both of the central and the local courts appear to have been selected from the sacerdotal caste, which engrossed to itself not only the ministry of religion, but likewise the practice of medicine and the administration of the law.

The king, of course, as in all ancient nations, occasionally administered justice in person, but, as the historians have remarked, the king of Egypt, although springing not from the sacerdotal but from the warrior caste, was always at his accession initiated into the mysteries of the priesthood, and thereby became affiliated with the priestly class, the possessors of all the knowledge of the time. The system of caste or class, to which we have referred, was not wanting in any ancient, or many modern nations of the world. It is not extinct today in the presence of the dominant democratic sentiment of the Twentieth Century; but it reached its greatest development in ancient Egypt and modern Hindustan. In both of these countries the priesthood and the warrior class divided all power between them, the priesthood, of course, by the power of intellect, being generally predominant. It would seem that in Egypt these two orders constituted something like a feudal class which owned most of the land and leased it out for cultivation to the class of agriculturists.

From the monumental records of Egypt and from the sparse notices of the historians we learn enough to show us that in the Egyptian courts there were written pleadings, not substantially different from our own at this day; that there was examination of witnesses for each side; that there were no speeches by advocates for either party — forensic eloquence seems not to

have been cultivated in the Land of the Nile; that the courts decided by a vote of the majority of its members; and that no costs were ever charged against either party, in order that justice might always be free to all, a principle which, although perhaps not practicable in our modern conditions, certainly has theoretically many considerations in its favor.

With reference to the domestic relations, it is a peculiar fact that in Egypt the matrimonial union seems to have been placed on a greatly higher plane than in most of the other ancient nations, not even excepting that of Israel. While it is true that both polygamy and divorce were allowed, yet both were of rare occurrence, and may be regarded as almost exceptional. The husband and wife were equal in the household. According to the historian Diodorus Siculus, the wife seems to have been more frequently from the mother than from the father to the son; and it was not unusual for a father to transfer his property to the mother, so that the son might inherit from her.

Wills and testaments would seem to have been practically unknown in Egypt before the days of the Ptolemies, when, with other Greek usages, they were introduced into the civil polity of the country. During the Ptolemaic period there are several instances related by the historians of the sovereignty itself being transmitted by will. Ptolemy Auletes, the father of Cleopatra, assumed by will to settle the monarchy and its dependencies among his four children. As might naturally have been expected, there was considerable similarity in some respects between the institutions and the laws of Egypt and the corresponding provisions of the Mosaic Code. Both systems had the week of seven days, and the same punishment for perjury and false testimony. Both codes were equally mild in their criminal branches, as compared with the more severe penalties imposed by various other nations; and in both there were provisions for the commutation of penalty on the ground of extenuating circumstances. The death penalty in Egypt was frequently commuted to penal servitude, either in the granite quarries of Upper Egypt and Nubia, or in the mines of the Sinaitic desert in Arabia. The provision was presumed to be in the interest of mercy; it was generally cruel enough in practice, and no better than a living death.

We have mentioned the fact that the sacerdotal and the warrior classes in Egypt owned most of the land, and merely leased it to the agricultural class for tillage. Contracts of lease have been found, in some of which a fixed rent is provided to be paid, in others a fixed share of the produce. There would likewise seem to have been in effect a system of registration of the title to land. Mortgages and pledges were in use, and the rate of interest upon loans was regulated. A peculiar form of pledge was that of the body of one's parent or ancestor, carrying with it the use of the family sepulchre a form of pledge

which derived its force from the Egyptian love of ancestry and the peculiar and most extraordinary care taken for the preservation of the bodies of the dead by embalmment, so that they should be ready for the resurrection. The resurrection of the body and the immortality of the soul were in some manner connected in their religious system; and the preservation of the body intact was deemed to be necessary for its resurrection. No more binding pledge, therefore, could have been given than that of the possession of the burial ground.

The ultimate authority in the settlement of disputes was the pharaoh, whose decrees were supreme. Because of the complex nature of legal administration, the pharaoh delegated powers to provincial governors and other officials. Next to the pharaoh, the most powerful individual was the vizier, who directed all administrative branches of the government. He sat in judgment on court cases and appointed magistrates as part of his legal duties.

In a legal proceeding, the plaintiff was required to bring suit. The tribunal then ordered the defendant to appear in court if a point of law seemed to be involved in the dispute. Scribes employed in the legal system supplied procedural information; legal advocates did not represent the parties. Both parties spoke for themselves and presented any pertinent documentary evidence. Witnesses sometimes were called, but usually the judge ruled on the grounds of the documents and the testimony of each party. The judgment included recommendations for preserving the written record of the trial — possibly the main reason why many of these documents are extant.

Although masculine primogeniture dominated in some periods of Egyptian history, there are records of property being divided equally among the children, male and female. Even with masculine primogeniture, the other children and the surviving spouse usually received a share of the estate. The usual law of succession could be circumvented by a special unregistered document: a parent, for example, could favour a daughter by guaranteeing her rights over the family property. Legal judgments pertaining to the family and rights of succession clearly demonstrate that women as well as men were granted full rights under the laws of ancient Egypt. Women owned and bequeathed property, filed lawsuits, and bore witness in court proceedings without the authority of their father or husband. The working class also had some legal rights; even slaves were allowed to own property under certain circumstances.

Property transfers and contractual agreements were conducted as if they were the same type of legal transaction. Rental of slaves, for example, was regarded as a sales agreement. Work was often bartered for various com-

modities. The individual parties were allowed to determine restrictions and guarantees in their transaction concerning possible defects in the property or service as well as defects in the law.

Criminal justice necessitated a hierarchy in the judicial system, depending on the severity of the charge. Only the pharaoh could judge the most heinous criminals, often with the vizier conducting the investigation and turning to the pharaoh for final judgment. In some cases, the pharaoh appointed a special commission with full authority to pass judgment. Punishment for serious crimes included penal servitude and execution; mutilation and flogging were often used to punish lesser offenders.

Although punishment for criminal offenders could be severe — and, in the modern viewpoint, barbaric — Egyptian law nevertheless was admirable in its support of basic human rights. The pharaoh Bocchoris, for example, promoted individual rights, suppressed imprisonment for debt, and reformed laws relating to the transferal of property. His legal innovations are one example of the far-reaching implications of Egyptian law: the Greek lawgiver Solon (6th century BC) visited Egypt and adapted aspects of the legal system to his own ideas for Athens. Egyptian law continued to influence Greek law during the Hellenistic period, and its effects on Roman imperial law may still be felt today.

The laws of Egypt commended themselves to the admiration of Solon, Plato, Aristotle, Herodotus, and Diodorus Siculus. It is presumed that they had much influence on the legislation of the great Athenian lawgiver, as well as on that of Moses. Thus they may have greatly to the same great Aryan Race to which we ourselves belong, and which comprised Greece and Rome, and most of the nations of modern Europe. More than four thousand years ago their ancestors and ours were intermingled on the Plains of Bactria, the great central region of Asia which may be said broadly to extend from the River Indus to the Sea of Aral, and where grew up the famous cities of Bokhara, Samarcand; Meru, and Herat. From this central seat two great streams of emigration flowed, one southeastwardly across the Indus, through the plains of Hindustan, to the Vindhya Mountains and the Bay of Bengal, the other westwardly to the great table land of Iran or Persia. Or rather there would seem to have been repeated waves of emigration moving westward and resulting in the establishment of Celts, Teutons, Slavonians, Romans, Illyrians, and Greeks as distinct nationalities, and succeeded by the last movement, that of the Aryans of Persia, which under the leadership of Cyrus and Darius Hystaspes, reached the shores of the Mediterranean and profoundly affected the history of all the western world.

No legal code survives from ancient Egypt. The surviving legal manuscripts, copies of such documents in hieroglyphic inscriptions, and references in ancient letters, indicate that Egyptian society operated with reference to decrees of the king, having the force of law, together with the precedents established in previous legal cases. This would make ancient Egyptian law analogous to the modern English system, where the laws (Acts of Parliament) are interpreted in the courts with reference to previous interpretations.

LAW DEVELOPMENT IN PHOENICIA

It is most extraordinary that the ancient people, who by their language, their laws, their literature, their arts and sciences, and their great deeds, influenced their own and all subsequent ages more than any other one nation that ever existed, the world-famed Phoenicians, should be at the same time so well and so little known to us, and that their history and their institutions, of which we read on almost every page of ancient story, yet are a blank to us.

The Phoenicians were the great merchants of antiquity, in fact the greatest mercantile people of all time; the most enterprising race of explorers and navigators the world has ever known, not excepting even our own restless Anglo-Saxon race; the people from whom Greece and Rome derived the letters of their alphabet and the greater part of their civilization; and from whom through Greece and Rome, our own civilization has been derived; a people who sailed along all the shores of the Mediterranean and the Indian Ocean a thousand years and more before the Christian Era, who circumnavigated Africa ages before Vasco de Gama accomplished that great enterprise, who explored the Atlantic coasts of Europe from Cadiz to Iceland and Norway long before the foundations of ancient Rome were laid, and who, as it has with great plausibility been asserted, may have crossed the Atlantic Ocean itself more than two thousand years before Columbus achieved the daring deed, and who may have opened communication with the Mound-Builders of the Mississippi and Ohio valleys, if indeed they were not themselves the Mound-Builders, as by some writers has been asserted and argued.

Not only upon the sea, but inland also, the Phoenicians established their trade. They controlled the commerce by caravan through Central Asia. In Central Europe they established communication from the Black and the Adriatic seas across the continent to the Baltic. They worked the gold mines of Ophir in Southern Africa, the silver mines of Spain, and the tin mines of Cornwall in England; and they traded with the Baltic for amber, and with the islands of the Indo-Chinese seas for the spices and perfumes and other rarities for which they were then as now renowned. And not only were they the great

merchants of the world; they were likewise its most noted artisans. They furnished architects and builders to King Solomon for his great temple; and many of the gigantic structures reared by the monarchs of Asshur were the work of their hands. They discovered the mode of manufacturing glass, and likewise the famous Tyrian dye; and they seem to have had the mariner's compass to aid them in their navigation. Above all, and greatest of all their contributions to human civilization, they either invented, or introduced to the world what possibly may have been the invention of others, the original letters of our Graeco-Roman Alphabet, our own letters of today with but slight modification — an invention of which we daily and hourly enjoy the benefit, and without which the remainder of our civilization would be comparatively valueless. But it would require many pages to narrate the achievements of the Phoenicians, whose fame in the ancient world was in inverse proportion to the size of the country, a narrow little strip of land along the eastern shores of the Mediterranean Sea, from 100 to 150 miles in length, and from about 5 to 20 miles in width, lying between the sea and the mountains of Lebanon. And yet, strangely enough, we know exceedingly little of their history, and almost nothing of their laws and social institutions.

They adjoined the territory of the Israelites and probably borrowed from the latter their republican institutions, which they transmitted to their numerous colonies; for a great many colonies they planted, in which to some extent they continued their national existence, among them, Crete, Rhodes, Boeotian Thebes in Greece, Carthage and Utica in Africa, Tartessus, Cadiz, and Lisbon in Spain and Portugal, and several on the shores of the Black Sea. Tyre, and Sidon, and Aradus, the principal cities of the parent country, by their great wealth, attracted the cupidity of the monarchs of Egypt, Asshur, and Babylonia; and they suffered much in frequent wars, and were several times besieged and captured. Sidon at last was destroyed by Artagerxes Ochus, King of Persia, in B.C. 351; and nineteen years later, in B.C. 332, Tyre suffered a similar fate at the hands of the famous conqueror, Alexander of Macedon. Carthage, the greatest and most renowned of all the Phoenician colonies, was utterly destroyed by the Romans, so that not one stone was left upon another; and, except in so far as its people came into contact or collision with the Romans, or with the Greek cities of Sicily, its history has absolutely perished.

We are, therefore, without any record whatever of Phoenician law, which necessarily must have been the most advanced code of law of the ancient world, inasmuch as their civil polity, their republican institutions, and the exigencies of their world-wide commerce, demanded legislation of the most liberal character; and it does not seem probable that any monumental ruins will ever be uncovered, like those of Egypt and Mesopotamia,

to throw light upon the subject, unless, indeed, illumination may be derived to us from the excavation of the palace of Minos in Crete and the civilization thereby revealed, or from some yet undiscovered monument of Hittite civilization in Asia Minor.

Indirectly, however, and in a general way, the excellence of the Phoenician law is testified to by the tribute paid to it by the greatest of Greek philosophers, possibly the greatest philosopher of all time. In his work on Politics and Economics, or Political Economy, as we would now call it, Aristotle, referring to Carthage, stated that its institutions were in some respects superior to those of any of the Greek States. And by the term "institutions" he means not merely the governmental structure and organization, but more especially the tenor of the law. And inasmuch as it is universally conceded that the "institutions" were substantially identical with those of its parent state, Tyre, what the great Greek philosopher says about the one is equally applicable to the other. Carthage was yet standing and powerful in his day; Tyre had just fallen and been destroyed. Similarly, the legislation of Minos in Crete was undoubtedly of Phoenician origin, and was famous throughout all the ages of Grecian greatness, notwithstanding that it had perished long before Athens and Sparta rose to power.

There is another remarkable fact that may be mentioned. The maritime and admiralty law, as we call it, the law of all the civilized world today in respect of marine transactions, has been traced back through the Roman Civil Law to the laws of the little island and the city of Rhodes, in the Eastern Mediterranean, at the southwestern angle of Asia Minor, well known to have been a colony of Phoenicia; and while we can not trace the stream any farther than from Rhodes, it is most natural to infer that the fountain head was in Phoenicia.

The Phoenicians came into frequent contact with the Babylonians. They not only maintained a commerce with them by means of the Euphrates River, but they also were their rivals and co-operators in the Indian Ocean. Indeed, one of the traditions preserved by the historian Herodotus in regard to the origin of the Phoenicians brings them from some islands in the Persian Gulf in close proximity to the early maritime cities of Babylonia. It is not unlikely, therefore, that these enterprising navigators should have borrowed for themselves some of the best features of the Babylonian law. But with this conjecture, and with these general remarks, we must dismiss the subject of Phoenician law from our further consideration. One of the most interesting chapters in the annals of time was closed to us forever, and became a sealed book, when Alexander of Macedon completed the work of Nebuchadnezzar and laid Tyre in ashes.

BABYLONIAN LAW

Archaeological material for the study of Babylonian law is singularly extensive. So-called “contracts” exist in the thousands, including a great variety of deeds, conveyances, bonds, receipts, accounts, and most important of all, actual legal decisions given by the judges in the law courts. Historical inscriptions, royal charters and rescripts, dispatches, private letters and the general literature afford welcome supplementary information. Even grammatical and lexicographical texts contain many extracts or short sentences bearing on law and custom. The so-called “Sumerian Family Laws” are preserved in this way. Other cultures involved with ancient Mesopotamia shared the same common laws and precedents, extending to the form of contracts that Kenneth Kitchen has studied and compared to the form of contracts in the Bible with particular note to the sequence of blessings and curses that bind the deal. The instructions of Ptahhotep, Sharia Law, and Mosaic law also include certifications for professionals like doctors, lawyers and skilled craftsmen which prescribe penalties for malpractice very similar to the code of Hammurabi. The discovery of the now-celebrated Code of Hammurabi has made possible a more systematic study than could have resulted from just the classification and interpretation of other material.

Property law

The Code recognizes many ways of disposing of property: sale, lease, barter, gift, dedication, deposit, loan, or pledge, all of which were matters of contract. Sale was the delivery of a purchase (in the case of real estate, symbolized by a staff, a key, or deed of conveyance) in return for purchase money, receipts being given for both. Credit, if given, was treated as a debt, and secured as a loan by the seller to be repaid by the buyer, for which he gave a bond.

The Code only allows claims substantiated by documents or the oath of witnesses. A buyer had to be sure of the seller’s title. If he bought (or received on deposit) from a minor or a slave without power of attorney, he would be executed as a thief. If the goods were stolen and the rightful owner reclaimed them, he had to prove his purchase by producing the seller and the deed of sale, or witnesses to it; otherwise, he would be adjudged a thief and die. If he proved his purchase, he had to give up the property but could pursue a remedy against the seller or, if the seller had died, could reclaim fivefold from his estate.

A man who bought a slave abroad might find that he had previously been stolen or captured from Babylonia; he would then have to restore him to his former owner without recompense. If he bought property belonging to a feudal holding, or to a ward in Chancery, he had to return it as well as forfeit what he paid for it. He could repudiate the purchase of a slave attacked by the bennu sickness within a month (later, a hundred days) and could hold a newly purchased female slave for three days "on approval." A defect of title, or an undisclosed liability, would invalidate a sale at any time.

Leasing

Landowners frequently cultivated their land themselves, but could also employ a husbandman, or rent it. The husbandman was bound to carry out proper cultivation, raise an average crop, and leave the field in good tilth. In case the crop failed, the Code fixed a statutory return. Land might be leased at a fixed rent, where the Code stipulates that accidental loss fell on the tenant. If leased on profit-sharing terms, the landlord and tenant shared the loss proportionally to their stipulated share of profit. If the tenant paid his rent and kept the land in good tilth, the landlord could not interfere nor forbid subletting.

Wasteland could be leased for reclamation, the tenant being rent-free for three years and paying a stipulated rent in the fourth year. If the tenant neglected to reclaim the land, the Code stipulated that he must hand it over in good tilth and set a statutory rent. Gardens or plantations were leased in the same ways and under the same conditions; but for date groves, four years' free tenure was allowed.

The metayer system was common, especially on temple lands. The landlord found land, labour, oxen for ploughing and working the watering machines, carting, threshing or other implements, grain seed, rations for the workmen and fodder for the cattle. The tenant, or steward, usually had other land of his own. If he stole the seed, rations or fodder, the Code stipulated that his fingers be cut off. If he appropriated or sold the implements, or impoverished or sublet the cattle, he was heavily fined and in default of payment, might be condemned to be torn to pieces by the cattle on the field. Rent was determined by contract.

Irrigation was essential for farming in this region. If the irrigator neglected to repair his dike or left his runnel open and caused a flood, he had to make good the damage done to his neighbours' crops or be sold with his family to pay the cost. The theft of a watering machine, water-bucket or

other agricultural implement was heavily fined.

Houses were usually leased for the year, but also for longer terms, rent being paid in advance, half-yearly. The contract generally specified that the house be in good repair, and the tenant was bound to keep it so. The wood-work, including doors and door frames, was removable, and the tenant might bring and take away his own. The Code stipulated that if the landlord re-entered before the term was up, he must remit a fair proportion of the rent. Land could be leased for the purpose of building houses or other buildings on it, the tenant being rent-free for eight or ten years; after which the building came into the landlord's possession.

Hired labour

Despite the multitude of slaves, hired labour was often needed, especially at harvest. This was a matter of contract, and the employer, who usually paid in advance, might demand a collateral against fulfillment of the work. Cattle were hired for ploughing, working the watering machines, carting, threshing, etc. The Code fixed a statutory wage for sowers, ox-drivers, field-labourers, and hire for oxen, asses, etc.

There were many herds and flocks. The flocks were committed to a shepherd, who gave receipt for them and took them out to pasture. The Code fixed his wage. He was responsible for all care, must restore ox for ox, sheep for sheep and must breed them satisfactorily. Any dishonest use of the flock had to be repaid tenfold, but loss due to disease or wild beasts fell upon the owner. The shepherd made good all loss due to his own neglect. If he let the flock feed on a field of crops, he had to pay damages fourfold; if he turned them into standing crops when they ought to have been folded, he paid twelvefold.

GLOSSARY

1. accomplish an enterprise
2. account (n)
3. adjudge a thief
4. administration (n)
5. Admiralty law
6. affiliate (v)
7. annals of time

8. artisan (n)
9. barter (v)
10. be in effect
11. bequeath (v)
12. besiege (v)
13. binding pledge
14. bond (n)
15. bring suit
16. capture (v)
17. cart (vc)
18. caste (n)
19. Chancery (n)
20. circumnavigate (v)
21. civil polity http://multitrans.ru/c/m.exe?t=3285106_2_1
22. collateral (n)
23. commend sb to sb (v)
24. commutation (n)
25. condemn (v)
26. conjecture (n)
27. conveyance (n)
28. copious monumental record
29. cupidity (n)
30. decree of the king
31. dedication (n)
32. deed (n)
33. defendant (n)
34. delegate power
35. delivery of a purchase
36. deposit (n)
37. dismiss sth from further consideration
38. dispatch (n)
39. dispose of property
40. document in hieroglyphic inscriptions
41. elicit (v)
42. eminence (n)
43. engross (v)
44. enterprising (adj)
45. establish precedent
46. examination of witnesses
47. extinct (adj)

48. flogging (n)
49. fodder (n)
50. forensic eloquence
51. forfeit (n)
52. gain renown for sth
53. give a bond
54. great central court
55. hierarchy in the judicial system
56. husbandman (n)
57. immortality of the soul
58. imprisonment for debt
59. in default of payment,
60. in inverse proportion to sth
61. in the interest of mercy
62. inscription (n)
63. intact (adj)
64. intermingle (v)
65. invalidate (v)
66. lease on profit-sharing terms
67. lease the land out for cultivation
68. leave a field in good tilth
69. legal manuscript
70. lie in ashes
71. loan (n)
72. local judge
73. lore (n)
74. malpractice (n)
75. maritime law
76. masculine primogeniture
77. matrimonial union
78. mercantile (adj)
79. metayer system
80. mortgage (n)
81. mutilation (n)
82. nome (n)
83. oath of witness
84. of rare occurrence
85. of the law
86. papyri (n)
87. penal servitude

88. perish (v)
89. perjury (n)
90. plaintiff (n)
91. plausibility (n)
92. pleading (n)
93. pledge (n)
94. polygamy (n)
95. power of attorney
96. primeval civilization
97. proficient in legislation
98. promulgated law
99. pursue a remedy against sb
100. raise a crop
101. real estate (n)
102. receipt (n)
103. reclamation (n)
104. recompense (n)
105. remit a fair proportion of sth
106. remnant (n)
107. rent-free (adj)
108. repudiate (v)
109. rescript (n)
110. resurrection of the body
111. rightful owner
112. sacerdotal (adj)
113. scribe (n)
114. sea-faring people
115. sea-power
116. selection of judges by electorate
117. sepulchre (n)
118. severe penalty
119. subletting (n)
120. substantiate (v)
121. tenant (n)
122. tenor of the law
123. testament (n)
124. thresh (v)
125. tillage (n)
126. title to sth (n)
127. transferal of property

- 128. tribute (n)
- 129. undisclosed liability
- 130. ward (n)
- 131. wave of emigration
- 132. will (n)

TASKS

1. Answer the questions to the text.

- a) What was the political organization of Egypt?
- b) How many judges were there in a great central court?
- c) Who was the president of the tribunal?
- d) How did the courts decide?
- e) Were polygamy and divorce allowed in ancient Egypt?
- f) Were there any contracts in ancient Egypt?
- g) Did loans, mortgages and pledges exist in ancient Egypt?
- h) Did any legal code survive from ancient Egypt?
- i) Who had the ultimate authority in the settlement of disputes?
- j) Were ancient Babylonians familiar with any kind of contracts?
- k) What did a citizen of Babylon do, if he bought a slave abroad and found that he had previously been stolen or captured from Babylonia?
- l) Did the Hammurabi's Code allow claims not necessarily substantiated by documents or the oath of witnesses?
- m) What was the husbandman obliged to do if he failed to carry out proper cultivation and raise a crop?
- n) What was the usual term for house leasing?
- o) Were there any fixed wages for the work-hand provided by the Hammurabi's Code?

2. Agree or disagree with the statements.

- a) Egypt, as well as Phoenicia and Babylonia, holds the honor of radiating all the ancient civilization over the world.
- b) The Egyptian king occasionally administered justice in person.
- c) In ancient Egypt the priesthood possessed all power in their hands.
- d) In the Egyptian courts there were written pleadings, similar to those we have nowadays.
- e) The trial costs were charged against party that lost the case.
- f) In ancient Egypt the husband and wife were equal in the household.
- g) Death penalty in Egypt was frequently commuted to penal servitude.

h) Egyptian society operated with reference only to decrees of the king, who had the force of law.

i) The vizier directed all administrative branches of the government.

j) Only the vizier could judge the most heinous criminals.

k) The Phoenicians adjoined the territory of the Israelites and probably borrowed from them their republican institutions.

l) The Hammurabi's Code only allows claims substantiated by documents or the oath of witnesses.

m) Landowners in Babylon always either employed a husbandman to cultivate his land, or rented it.

n) The metayer system was common only on temple lands.

o) The employer who usually paid in advance to the hired person could demand a collateral against fulfillment of the work.

3. Define whether the following statements refer to Babylon (B), Egypt (E) or Phoenicia (P).

a) The law greatly supported basic human rights.

b) The excellence of law is proved by the fact that the greatest Greek philosophers admired it.

c) The matrimonial union was probably placed on a greatly higher plane than in most of the other ancient nations.

d) The number of judges, exclusive of the President or Chief Justice was always kept at thirty.

e) There were not any speeches by advocates for either party.

f) The country's sailors borrowed for themselves some of the best features of the Babylonian law.

g) A defect of title, or an undisclosed liability, meant invalidating a sale at any time.

h) All the judges both of the central and the local courts are thought to have been selected from the sacerdotal caste.

i) Landowners frequently cultivated their land themselves, but could also employ a husbandman, or rent it.

j) Mortgages and pledges were common, and the rate of interest upon loans was regulated.

k) So-called "contracts" existed in the thousands, including a great variety of deeds, conveyances, bonds, receipts, accounts, and most important of all, actual legal decisions given by the judges in the law courts.

l) The Code fixed a statutory wage for sowers, ox-drivers, field-labourers, and hire for oxen, asses, etc.

m) The Code only allowed claims substantiated by documents or the oath of witnesses.

n) The Code recognized many ways of disposing of property: sale, lease, barter, gift, dedication, deposit, loan, or pledge.

o) Death penalty in was frequently commuted to penal servitude.

p) The ultimate authority in the settlement of disputes was the pharaoh, whose decrees were supreme.

q) They adjoined the territory of the Israelites and probably borrowed from the latter their republican institutions, which they transmitted to their numerous colonies.

r) Wasteland could be leased for reclamation, the tenant being rent-free for three years and paying a stipulated rent in the fourth year.

s) Wills and testaments were practically unknown before the days of the Ptolemies.

t) Witnesses sometimes were called, but usually the judge ruled on the grounds of the documents and the testimony of each party.

4. Make up a detailed plan of the text about Babylonian, Egyptian and Phoenician law. Practise retelling the text making use of key words and phrases from the exercises on lexis.

5. Match the English phrases to their Russian equivalents.

- | | |
|--------------------------------------|--------------------------------|
| 1. Primeval civilization | a) применение закона |
| 2. Promulgated law | b) местные судьи |
| 3. Local judges | c) брачный союз |
| 4. Selection of judges by electorate | d) гражданская форма правления |
| 5. Administration of the law | e) каторжные работы |
| 6. Leased the land out | f) быть в силе |
| 7. Examination of witnesses | g) жестокое наказание |
| 8. Forensic eloquence | h) первобытная цивилизация |
| 9. Matrimonial union | i) редко встречающийся |
| 10. Of rare occurrence | j) в пользу милосердия |
| 11. Civil polity | k) опрос свидетелей |
| 12. Severe penalties | l) отдавать землю в аренду |
| 13. Penal servitude | m) красноречие адвоката |
| 14. In the interest of mercy | n) обнародованный закон |
| 15. Be in effect | o) выбор судей народом |

6. Translate into English paying attention to the underlined words and expressions.

1. Его право собственности на землю безусловно и не может быть оспорено.

2. Бессмертие души — один из главных догматов христианской церкви.

3. Фирма требует внесения обязательного залога при аренде автомобиля.

4. В те времена можно было поручить своих детей покровительству феодала.

5. Последняя волна иммиграции, захлестнувшая Италия, обернулась экономической катастрофой.

6. В поисках правовых рукописей он провел не один год.

7. Указ короля был не выполнен, что вызвало его гнев.

8. На него были возложены полномочия по переговорам с союзным государством.

9. Право старшего сына на наследование недвижимости сохранилось долгое время во многих странах мира.

10. Мы наблюдаем строгую иерархию в юридической системе древних цивилизаций.

11. Смертная казнь часто заменялась каторжными работами, так как это было экономически более выгодно государству.

12. Лишение свободы за долг кажется абсурдным в наши дни, но раньше широко практиковалось.

13. Передача собственности должна совершаться в присутствии юридического лица и быть нотариально заверена.

14. Чтобы подать иск, рекомендуется обратиться к солиситору.

15. Общее право предполагает, что может быть установлен прецедент.

16. Это обеспечивает запас по мощности в обратной пропорции.

17. Группа преступников была окружена и захвачена, несмотря на сопротивление.

18. Суд часто не только решает, виновен ли подсудимый, но и трактует текст (смысл) закона.

19. Адмиралтейское и морское право находятся в ведомстве особой комиссии.

20. Подобные случаи уже были зафиксированы в анналах истории.

21. Его дом был сожжен дотла, и он считал, что это был поджог, а не несчастный случай.

22. Если вы не знаете, как распорядиться имуществом, спросите совета у юриста.

23. Осуществление покупки не обязательно должно сопровождаться подписанием контракта.

24. Все свое недвижимое имущество он передал государству.

25. Когда он попросил у друга денег, тот неожиданно потребовал от него долговую расписку.

26. Присяга свидетеля проводится на Библии в независимости от вероисповедания.

27. Для управления чужим автомобилем вам необходима письменная доверенность от владельца.

28. Суд до сих пор пытается установить законного владельца участка.

29. Лицо, признанное вором по суду, не может занимать эту должность.

30. Обязательство не считается указанным, если не зафиксировано в договоре.

31. Если вы не являетесь собственником земли, то не стоит выращивать на ней урожай: он может быть конфискован владельцем.

32. Обязанностью вассала было хорошо обрабатывать землю.

7. Give definitions to the following words.

- a) affiliated
- b) extinct
- c) pleading
- d) remnants
- e) papyri
- f) lore
- g) elicited
- h) eminence
- i) polygamy
- j) perjury
- k) commutation
- l) sacerdotal
- m) tillage
- n) mortgage
- o) pledge
- p) loan

8. Find the underlined sentences in the text and translate them. Complete the sentences below with the most suitable words from them.

a) They took their landlord to for breaking the contract.

b) It is clearly the work of a master, not a master himself.

c) In former times a murderer who was found guilty would be

..... to death.

d) They have half redeemed their fame.

e) His dream was to the globe.

f) A certain sum of money was offered in for injuries.

g) The church bore an that contained some words in praise of Virgin Mary.

h) Thousands suffered death or in the bomb blast.

i) He was sentenced to public for breaking the country's alcohol laws.

j) The captain went to the enemy camp to fuel for the prisoner's life.

k) Policemen in plain clothes with the crowd to prevent trouble during the foreign ruler's state visit.

l) This ring was to me by my late great-grandmother.

m) Eventually he managed to redeem the and become free again.

n) The judge ruled in favour of the

o) The complained about some threats during the investigation.

p) The ceremony of of his personal library to the city council was moving and touching.

q) He emerged from the trial with his reputation and pure.

r) With this they may pay the first on farms.

s) Last night some vandals invaded into the and damaged it.

t) He argued with that the claims were true.

u) He asked if I had the to his father's property.

v) The merchant soon made a fortune.

w) He won as a fair judge.

x) This is the last and of the deceased Taylor.

z) Her that the election would be a landslide proved to be true.

9. Use the following words and phrases in the sentences of your own.

a) tribute

b) repudiate

c) invalidate

- d) lease on profit-sharing terms
- e) forbid subletting
- f) reclamation
- g) rent-free
- h) sublet
- i) in default of payment
- j) collateral
- k) engrossed
- l) sea-power
- m) copious monumental records
- n) sea-faring people
- o) proficient in legislation
- p) sacerdotal caste
- q) tenant
- r) malpractice

10. Insert the letters in the following phrases.

- a) re _ _ r _ e _ t _ _ n of the b _ dy
- b) c _ _ im s _ bst _ nt _ _ ted
- c) pu _ _ ue a re _ ed _ _ against sb
- d) w _ rd in Ch _ nc _ ry
- e) met _ _ er s _ ste _
- f) re _ it a fai _ pro _ or _ ion of _ the rent
- g) g _ ain s _ ed

11. Translate the text into English. Pay special attention to the words and phrases in bold.

Право Древнего Египта

Первоначально **источником права** был обычай, затем — фараон. Есть сведения о **кодификациях**, но до нас не дошло ни одного свода египетского права.

Право собственности. Земли в Египте делились на: государственные, храмовые, частные, общинные. Существовали **сделки с землей** (дарение, купля-продажа, наследование). В деревне наблюдалось медленное развитие **частной собственности** из-за общины. В разряде **движимого имущества**: рабы, скот, инвентарь. Движимое имущество рано оказалось в частной собственности и было предметом различных сделок.

Обязательственное право. В Египте существовали различные виды договоров: **договоры займа, найма, купли-продажи, аренды земли, поклажи, товарищества.** Особый порядок существовал для перехода земли из рук в руки. Он предполагал 3 акта: соглашение между покупателем и продавцом о предмете и платеже, религиозную клятву продавца, **ввод покупателя во владение.**

Семейное право. В Египте долго существовали пережитки матриархата, что обусловило высокое положение женщины. Брак заключался на основе договора, в котором оговаривался **правовой режим имущества.** Приданое было собственностью жены, допускалась передача всего имущества жене. Дети назывались по имени матери, а дочери наследовали наравне с сыновьями. Брак расторгался свободно. **Завещания** могли делать как муж, так и жена. Постепенно женщины утрачивали равенство с мужчинами.

Уголовное право и процесс. В уголовном праве фигурирует широкий круг **деяний, признаваемых преступлениями.** К самым тяжким относились **посягательства на государственный и общественный строй** (предполагалась ответственность на всех членов семьи). Сурово наказывались религиозные преступления (в частности, убийство священных животных). Выделялись **преступления против личности:** телесные повреждения, убийство (особо сурово каралось **отцеубийство**). В разряде преступлений — нарушение правил врачевания. Среди имущественных преступлений — **кража, обмеривание, обвешивание.** Среди уголовных преступлений — **преступления против чести и достоинства (прелюбодеяние и изнасилование).**

Цель наказаний — **устрашение.** Самое распространенное — **смертная казнь**, а также членовредительство, **заключение в тюрьму**, обращение в рабство, **штрафы.**

Процесс проходил одинаково по гражданским и уголовным делам и начинался по жалобе потерпевшего. В качестве доказательств использовались **свидетельства, клятвы, пытки.**

12. Render the text into English.

Законы Хаммурапи

Правление царя Хаммурапи (1792-1750 гг. до н. э.) ознаменовано созданием сборников законов. Хаммурапи, придавая большое значение законодательной деятельности, притупил к ней в самом начале своего правления. Первая кодификация была создана на втором году

правления; это был год, когда царь «установил право стране». Данная кодификация, к сожалению, не сохранилась, а известные сегодня законы Хаммурапи относятся к концу его царствования. Эти законы были выбиты на большом черном базальтовом столбе. Наверху, на лицевой стороне столба изображен царь, стоящий перед богом Солнца Шамашем — покровителем суда. Под рельефом начертан текст законов, заполняющий обе стороны столба. Текст распадается на три части. Первой частью является обширное введение, в котором Хаммурапи объявляет, что боги передали ему царство для того, «чтобы сильный не притеснял слабого». Затем следует перечисление благодеяний, которые были оказаны Хаммурапи городам своего государства. После введения размещены статьи законов, которые в свою очередь заканчиваются обстоятельным заключением. Всего памятник насчитывает 282 статьи.

При составлении сборника в его основу были положены старое обычное право, шумерийские судебники, новое законодательство. Законы несовершенны с точки зрения их полноты и по своей категоричности, они не предусматривают разнообразных явлений жизни. Тексты составлены в основном в казуистической форме. Нет общих принципов, системы в изложении, хотя известная логика присутствует. Но все представленные случаи разбираются с большой обстоятельностью. Законы Хаммурапи, в отличие от других восточных кодификаций, не содержат религиозного и морализующего элементов.

Своим законодательством Хаммурапи пытался закрепить общественный строй государства, господствующей силой в котором должны были стать мелкие и средние рабовладельцы. Это первый известный сборник законов, освящавший рабовладельческий строй, частную собственность. Законы содержат пережитки родового строя, что проявляется в суровости наказания, сохранении принципа талиона, применении ордалия.

Право собственности. Во времена правления Хаммурапи частная собственность достигла высокого уровня развития. В Вавилоне существовали различные виды земельной собственности: были земли царские, храмовые, общинные, частные. И царским и храмовым хозяйством управлял царь, и это был важнейший источник дохода. Царская земля раздавалась в пользование издольщикам. Значение царского хозяйства было велико в области торговли и обмена. Царствование Хаммурапи отмечено интенсивным развитием частной собственности на землю, чему в немалой степени способствовало расширение сети каналов. Частное землевладение было различным по

своему объему. Крупные землевладельцы использовали труд рабов и наемных рабочих, мелкие — сами обрабатывали свою землю. Развитие частной собственности на землю вело к сокращению общинных земель, упадку общины. Земли могли свободно продаваться, сдаваться в аренду, передаваться по наследству, о каких-либо ограничениях со стороны общины источники не упоминают.

Обязательства. В законах Хаммурапи имеется ряд статей, регулировавших аренду земли, которая играла, очевидно, большую роль в земельных отношениях того времени. Плата за арендованное поле равнялась обычно 1/3 урожая. При аренде на условиях отдачи половины урожая арендодатель обязывался участвовать в расходах или в работе по обработке поля. Сад, который давал больше дохода, сдавали за 2/3 урожая. Аренда была краткосрочной (на один или два года). На более длительный срок в аренду сдавалась еще не освоенная земля. Законодательство, определяющее отношения между хозяином земли и арендатором, способствовало развитию хозяйства. Если арендатор не обрабатывал взятую землю, то он должен был уплатить хозяину поля исходя из объема урожая, выращенного соседями.

Кроме аренды поля, сада, законы Хаммурапи упоминают о различных видах имущественного найма помещения, домашних животных, судов, повозок, рабов. Законы устанавливали не только плату за наем вещей, но и ответственность в случае потери или гибели нанятого имущества. Был широко распространен договор личного найма. Кроме сельскохозяйственных рабочих, нанимали врачей, ветеринаров, строителей. Законы определяли порядок оплаты труда этих лиц, а также ответственность за результаты труда (например, врача в случае смерти больного). Довольно подробно законы Хаммурапи регулировали договор займа. Характерной чертой законодательства в этом вопросе является стремление оградить должника от кредитора и предотвратить долговое рабство. Об этом свидетельствуют положения о максимальном сроке отработки долга (три года), ограничении процентов, взимаемых ростовщиком как с денежного, так и с натурального займа, ответственность кредитора в случае смерти должника в результате дурного обращения с ним.

В условиях существования частной собственности как на движимое, так и на недвижимое имущество большое развитие получил договор купли-продажи. Продажа наиболее ценных предметов (земли, построек, рабов, скота) осуществлялась в письменной форме (на глиняных табличках) при свидетелях. Продавцом мог быть только собственник вещи.

Кроме названных, законодательство Хаммурапи знает договоры хранения (поклажи), товарищества, мены, поручения.

Законы Хаммурапи предусматривают обязательства из причинения вреда. Ответственность несет тот, кто причинит смерть рабу (хозяину следует отдать раба за раба); корабельщик, потопивший корабль вместе с вверенным ему для перевозки имуществом, обязан возместить стоимость всего погибшего.

Брачно-семейные отношения. Брак был действительным только при наличии письменного договора, заключенного между будущим мужем и отцом невесты. Семейные отношения строились на главенстве мужа. Жена за неверность подвергалась суровому наказанию. Если жена была бесплодна, муж мог иметь побочную жену. Однако замужняя женщина не была бесправна: она могла иметь свое имущество, сохраняла право на приданое, имела право на развод, могла вместе с детьми наследовать имущество после мужа. Довольно сильная власть отца над детьми проявлялась в возможности продавать их, отдавать в качестве заложников за долги, отрезать язык за злословие на родителей. Тем не менее, закон ограничивал эту власть. Так, отец не имел права лишить наследства сына, не совершившего преступления. Законы Хаммурапи признают усыновление детей.

Наследование по завещанию уже имеет силу, но с известными ограничениями. Преимущественным способом наследования является наследование по закону. В качестве наследников выступали: дети, усыновленные дети, внуки, дети от рабыни-наложницы, если отец признавал их своими.

Уголовное право и процесс. Как и другие древние кодификации, законы Хаммурапи не дают общего понятия преступления и перечня всех тех деяний, которые признаются таковыми. Ничего не говорится в законах о государственных и религиозных преступлениях, всегда караемых смертью. Из содержания кодификации можно выделить лишь три вида преступлений: против личности, имущественные и против семьи.

Среди преступлений против личности законы называют неосторожное убийство (об умышленном ничего не говорится). К таким преступлениям относятся, например, действия строителя, построившего дом, который обвалился и причинил смерть хозяину, врача, причинившего смерть человеку в результате операции. Довольно подробно в законах говорится о различного рода членовредительствах: о повреждении глаза, зуба, кости. Во всех случаях при определении наказания действовал принцип талиона: виновного постигала

та же участь, что и потерпевшего. В случае причинения побоев с преступника взимался определенный штраф.

К имущественным преступлениям, указанным в законах, следует отнести кражу скота, рабов. Укрывательство рабов, снятие с них клейма законы определяли как преступные действия. Отличным от кражи преступлением законы называли грабеж. Все имущественные преступления наказывались очень сурово. Это была либо смертная казнь, либо членовредительство (отрубание руки, например), либо огромный штраф, многократно превышающий стоимость украденного, заплатить который мог далеко не каждый. В случае неуплаты такого штрафа должника казнили.

Среди преступлений, подрывающих устои семьи, законы называли прелюбодеяние (причем, только со стороны жены), кровосмешение (например, связь матери с сыном, отца с дочерью и между другими близкими родственниками). Названы преступлениями действия, подрывающие отцовскую власть (сын, ударивший своего отца, лишался руки).

Виды наказаний, предусмотренные законами Хаммурапи, определялись их целью. Такой целью было возмездие. Поэтому при определении наказания законодатель довольно часто руководствовался принципом талиона. Основным видом наказаний являлась смертная казнь в самых различных вариантах: сожжение, утопление, посадение на кол; членовредительские наказания: отрубание руки, отрезание пальцев, языка и т. п.; штрафы, изгнание.

Процесс был одинаков как по уголовным, так и по гражданским делам. Дело начиналось с заявления потерпевшей стороны. В качестве средств доказывания служили свидетельские показания, клятвы, ордалии (законы упоминают испытание водой). Нормы процессуального права требовали от судей лично «исследовать дело». Судья не мог изменить свое решение. Если он это делал, то платил штраф в 12-кратном размере суммы иска и лишался своего места без права судить когда-либо.

PART II. HISTORY OF BRITISH LAW

TEXT 3 (5,300 SIGNS)

Read and translate the text.

A BRIEF HISTORY OF HABEAS CORPUS

Habeas corpus is under attack, say critics of the government's anti-terror bill. But what is it and why is it so cherished? Habeas corpus (*ad subjiciendum*) is Latin for "you may have the body" (subject to examination). It is a writ which requires a person detained by the authorities be brought before a court of law so that the legality of the detention may be examined. The name is taken from the opening words of the writ in medieval times. Although rarely used nowadays, it can theoretically be demanded by anyone who believes they are unlawfully detained and it is issued by a judge. It does not determine guilt or innocence, merely whether the person is legally imprisoned. It may also be writ against a private individual detaining another. If the charge is considered to be valid, the person must submit to trial but if not, the person goes free.

The Habeas Corpus Act passed by Parliament in 1679 guaranteed this right in law, although its origins go back much further, probably to Anglo-Saxon times. Sir William Blackstone, who wrote his famous *Commentaries on the Laws of England* in the 18th Century, recorded the first use of habeas corpus in 1305. But other writs with the same effect were used in the 12th Century, so it appears to have preceded *Magna Carta* in 1215.

Its original use was more straightforward — a writ to bring a prisoner into court to testify in a pending trial. But what began as a weapon for the king and the courts became — as the political climate changed — protection for

the individual against arbitrary detention by the state. It is thought to have been common law by the time of Magna Carta, which says in Article 39: “No freeman shall be taken or imprisoned or disseised or exiled or in any way destroyed, nor will we go upon him nor will we send upon him except upon the lawful judgement of his peers or the law of the land.” Over the next few hundred years, concern grew that kings would whimsically intervene on matters of detention, so it was enshrined in law in 1679. In 1772, there was a landmark case in which it was invoked. James Somersett, a black slave brought back to the UK from Jamaica, was freed after a debate sparked by his demand for habeas corpus. Lord Mansfield successfully argued for his release.

These days it is rarely used, although it has greater effect in the US, where its most common use is by prisoners after conviction. Michael Zander QC, Emeritus Professor of Law at the London School of Economics, says: “Habeas corpus has a mythical status in the country’s psyche. In reality it is no longer of great practical significance as there are today very few habeas corpus applications, but it still represents the fundamental principle that unlawful detention can be challenged by immediate access to a judge — even by telephone in the middle of the night.” It no longer plays a role in regard to detention by the police as it has been superseded by the much more detailed and workable provisions of the Police and Criminal Evidence Act 1984, which lays down precise rules about the length of pre-charge detention, he adds.

But there have been occasions when the British Parliament has suspended it, usually in times of social unrest. William Pitt, startled by the success of the French revolution, did so after France declared war on Britain in 1793, to arrest parliamentary reformers. This was repeated by Lord Liverpool’s government against the same movement in 1817. War was a particularly fraught time for individual liberty. The Defence of the Realm Act 1914 meant the home secretary could intern residents and it was used against people of German descent, and Irish suspected of involvement in the Easter Uprising. These powers were reinstated in World War II to detain those of German background, including Jewish refugees, as well as those with known fascist sympathies, such as Oswald Mosley. At the same time, the US authorities interned more than 110,000 Japanese-Americans. But the most recent example happened in 1971, when the British Government introduced the internment of hundreds of republican suspects in an attempt to shut down the IRA. The tactic was abandoned four years later and is thought to have increased support for the IRA.

Whether the anti-terror bill is the latest chapter in the history of habeas corpus is a matter of debate. Boris Johnson MP said earlier in the week that Tony Blair is the first peacetime prime minister to curtail the right to habeas corpus. Since then, the Lords appears to have won a concession that all the control orders issued against terror suspects be made by judges, not by ministers. And Home Secretary Charles Clarke insists there is no plan to detain anyone under the new laws. Mr Zander says: "The Anti-terrorism, Crime and Security Act 2001 passed in the aftermath of 9/11 set aside habeas corpus in regard to terrorism suspects who cannot be prosecuted. The Prevention of Terrorism Bill now before Parliament would broaden the ways in which terrorism suspects can be dealt with without being charged or prosecuted." But the Home Office denies its plans amount to habeas corpus suspension. A spokesman said: "We are not removing habeas corpus rights. Everyone has a right to habeas corpus and that will remain the case."

GLOSSARY

1. access to a judge (n)
2. application (n)
3. arbitrary (detention) (adj)
4. article (n)
5. authorities (n)
6. challenge (v)
7. charge (n, v)
8. common law (n)
9. concession (n)
10. conviction (n)
11. curtail (adj)
12. demand (n, v)
13. detain (adj)
14. detention (n)
15. disseise (v)
16. enshrine (v)
17. exile (v)
18. free (adj)
19. guilt (n)
20. home secretary (n)
21. innocence (n)
22. intern (v)
23. intervene (v)

24. issue (v)
25. legality (n)
26. legally (imprisoned) (adv)
27. matter of debate (n)
28. peer (n)
29. pending (trial) (adj)
30. pre-charge detention (n)
31. prosecute (v)
32. provision (n)
33. refugee (n)
34. release (n)
35. require (v)
36. resident (n)
37. social unrest (n)
38. spokesman (n)
39. submit (v)
40. supersede (v)
41. suspect (n)
42. suspend (v)
43. suspension (n)
44. testify (v)
45. trial (n)
46. unlawfully (adv)
47. valid (adj)
48. writ (n)

TASKS

1. Decide if the statements are true or false. Correct the false ones.

- a) Habeas corpus is a document which states that a person should be acquitted on representation of this document.
- b) Habeas corpus writ is used infrequently, but a lawyer can issue it on demand of the person detained.
- c) Habeas corpus can not be used to reach the verdict of innocence or guilt.
- d) Magna Carta established the existence of this legal document.
- e) Nowadays habeas corpus is mainly seen as a weapon of courts rather than protection of individuals.
- f) The USA citizens hardly ever apply to habeas corpus.
- g) If need be, a person can demand to be taken to court at night.

h) The reason for unpopularity of the writ is that there are more detailed laws concerning detention nowadays.

i) After the terrorist attacks on the Twin Towers there have been amendments to habeas corpus concerning terrorism suspects.

2. Insert the correct prepositions where necessary.

a) Lawyers have to deal different kinds of Law.

b) It is illegal to detain anyone the law without a warrant.

c) A person's right habeas corpus should not be violated.

d) These youngsters were suspected taking part in riots in many parts of the country.

e) If a county declares war some other country, it leads to serious political results.

f) People may require access a judge personally, or even by phone.

g) It is said that demand habeas corpus is not as frequent in Europe as in the USA nowadays.

h) The law guarantees protection anybody unlawful detention.

i) We were to testify a pending trial.

j) Our reporters will give a running commentary the election results as they are announced.

k) We fully intend to issue a writ the newspaper.

l) According to Habeas Corpus Act, one must be brought a court of law and only then imprisoned.

3. Match the verbs to their definitions.

- | | |
|--------------|--|
| 1. Challenge | a) to accuse sb formally of a crime so that there can be |
| 2. Charge | a trial in court |
| 3. Curtail | b) to keep sb in an official place, such as a police station, |
| 4. Detain | a prison or a hospital, and prevent them from |
| 5. Intern | leaving |
| 6. Issue | c) to limit sth or make it last for a shorter time |
| 7. Prosecute | d) to officially charge sb with a crime in court |
| 8. Reinstate | e) to officially stop sth for a time; to prevent sth from |
| 9. Supersede | being active, used, etc. for a time |
| 10. Suspend | f) to put sb in prison during a war or for political reasons, although they have not been charged with a crime |

- g) to question whether a statement or an action is right, legal, etc.; to refuse to accept sth
- h) to return sth to its previous position or status
- i) to start a legal process against sb, especially by means of an official document
- j) to take the place of sth/sb that is considered to be old-fashioned or no longer the best available

4. Complete the gaps by changing the words in brackets to the correct form.

- a) They managed to invent a/an plan. (work)
- b) The court has yet to pass in this case. (judge)
- c) It's to drive without a license. (law)
- d) The police are looking for the escaped in the city outskirts. (conviction)
- e) The President was obliged to power to the army. (concession)
- f) The legislation provides for the of suspected terrorists for up to seven days. (detain)
- g) They intended to challenge the of his claim in the courts. (legal)
- h) A/an for the government denied the rumours. (speak)
- i) Overcrowding and poor sanitary conditions led to disease in the camps. (refuge)
- j) The two players are appealing against their (suspend).

5. Match the adjectives to the nouns to make collocations.

- | | |
|---------------|-----------------|
| 1. common | a) access |
| 2. detailed | b) case |
| 3. immediate | c) charge |
| 4. landmark | d) detention |
| 5. medieval | e) law |
| 6. pending | f) provisions |
| 7. practical | g) rules |
| 8. pre-charge | h) significance |
| 9. precise | i) times |
| 10. valid | j) trial |

6. Complete the gaps with the most suitable words changing the form where necessary.

supersede, exile, authority, prosecute, unrest, article, arbitrary, testify, home, resident

a) The army is threatening to take over if civil continues.

b) The choice of players for the team seemed completely and biased.

c) It is a severe punishment to from one's native land.

d) secretary is in charge of the department that deals with the law, the police and prisons, and with decisions about who can enter the country.

e) There were confrontations between local and the police.

f) There are several witnesses who will for the defence.

g) The theory by more recent research.

h) The usual sign on private property is: Trespassers will

i) 10 of the European Convention guarantees free speech.

j) The health are investigating the problem.

TEXT 4 (6,700 signs)

Read and translate the text.

MIKE IBEJI. KING JOHN AND THE MAGNA CARTA

In 1209, John had been excommunicated in a dispute over the appointment of the Archbishop of Canterbury. He had used this as an excuse to confiscate church property and sell it back to his bishops at a profit. Part of the money raised by these exactions was used to create a fledgling English Navy. John had used this to invade Ireland in 1210, and on 30 May 1213, the Earl of Salisbury destroyed a French armada poised to invade the British Isles at Damme. However, it could also be used by his barons to justify their lack of support for his continental ventures. This delayed John's return to

the continent until 1214, but following the success at Damme, John was able to launch an invasion of Poitou. Once again, the Lusignans were pivotal. They were persuaded to switch allegiance to John, but at the critical point in the campaign, they refused to fight. John patched up a truce and retreated back to England, but once again he was tainted by the stain of cowardice through little fault of his own.

This gave the discontented barony their opportunity. They chose as their leader the East Anglian baron, Robert FitzWalter, who styled himself 'Marshal of the Host of God and the Holy Church'. From the start, they were a minority movement, as their choice of leader illustrates. FitzWalter was a somewhat unsavoury character with a series of grudges against John and a history of disaffection. He also had little regard for law or custom. In a quarrel over property rights with St Albans, he had resorted to violence and only went to the law after this failed. Once when John tried his son-in-law for murder, FitzWalter had turned up at court with 500 armed knights. He had been prominent in the plots against John in 1212, and saw this as another means for him to strike at the king. Other barons in the lists had similarly disreputable histories.

By contrast, most of the barony simply did not want to get involved. Few of them declared for the king, but among those that did was William Marshal. His son joined the rebels, and this seems to have been the solution adopted by many baronial families. The rebels declared against the king on 3 May 1215. Ironically, their demands were based upon the so-called 'Unknown Charter' developed from the laws of Henry I. In their efforts to break away from the harsh Angevin régime created by Henry II, they were harking back to the same 'Golden Age' that he had used to justify his actions. Their attempts to besiege Northampton Castle met with failure, but they scored a great coup when London opened its gates to them on 17 May (prompted in part by FitzWalter's castellany of Baynard's Castle in London itself). John havered, engaging in protracted negotiations. It was these that eventually led to the signing of Magna Carta at Runnymede in June 1215.

Magna Carta should not be seen as a sign of surrender. In John's mind, it was only ever a stalling action, intended to demonstrate his reasonableness to the undecided baronial majority in the run-up to inevitable hostilities. It was a bargaining chip: nothing more. It probably meant little more to the rebels either, and the fact that they reneged on their agreement to surrender London after the signing demonstrates their disdain of the Runnymede proceedings. Still, the articles of the charter show that John had pushed his barony too far.

After an opening chapter guaranteeing the rights of the Church, the next 15 chapters were provisions designed to curb the king's exploitation of loopholes in feudal custom: limiting scutages and relief payments, and banning the abuses of privilege common in wardship. A further ten chapters dealt with finances, and another important block confirmed people's rights under the Common Law. It is these latter that have been seen as crucial, as they subjected the king to the law of the land for the first time in Britain's history, and this clause is the only one that remains on the statute books today. Finally, they sought to ensure that the king carried out his promises, safeguarded the rebels from any comebacks, demanded that he fire his hated mercenary captains and tied the king to a council of 25 members in an effort to ensure his co-operation. It was doomed to failure. Magna Carta lasted less than three months.

By November 1215, John had the rebels' backs to the wall. He had recaptured Rochester Castle (which had been surrendered to them in September), and was poised to strike at London. The rebels, for their part, had offered the crown of England to Philip's son, Prince Louis of France, and he hurried reinforcements into London. John failed to grasp the nettle. Instead of striking at London in one final, decisive blow, he took the percentage option and began ravaging the rebels' heartlands. This gave Louis time to muster an army, and on 22 May 1216, he landed at Sandwich. John had been ready to receive them, but overnight his navy was scattered by a storm and his supporters, unwilling to trust his largely mercenary force, advocated retreat. Once again, John played the percentages and withdrew.

It was one withdrawal too many. Disenchanted by the perceived cowardice of their king, fully two thirds of the English barony threw in their lot with Louis. John was harried northwards, and it is during these dark days that the celebrated incident on the Wash occurred, where he lost his entire treasury and his collection of jewellery to the sea. At this point, the fate of Britain hung in the balance. If John failed, not only would he have lost the Angevin Empire, but the kingdom of England would have fallen into French hands. It would have been the Norman Conquest all over again.

Yet in a pathetic twist of fate, John's final act was the ultimate percentage play. He contracted dysentery as a result of over-indulgence and died during the night of 18 October 1216. His death pulled the rug out from under the feet of Prince Louis. With John out of the way, the regency council, led by William Marshal, declared John's son as king Henry III and reissued Magna Carta, removing a major part of the rebels' platform. All those barons who had been prepared to oppose John now flocked to his son's standard, and the conflict shifted from a civil war over baronial rights to a war of

resistance against foreign invasion. Louis was defeated at Lincoln and Sandwich, by land and sea, and agreed to withdraw in September 1217. It was the final ironic twist in the story of Henry II and his sons. By their own actions, they had won and lost an empire; and by his death, John saved the kingdom of England.

GLOSSARY

1. at a profit
2. carry out a promise
3. chapter (n)
4. clause (n)
5. Common Law
6. dispute over sth
7. disreputable history
8. doom to failure
9. ensure (v)
10. excuse to confiscate
11. exploitation (n)
12. feudal custom
13. get involved
14. go to the law
15. justify sth (v)
16. means for sth (n)
17. negotiation (n)
18. patch up a truce
19. plot against sb (n)
20. property rights
21. provision (n)
22. quarrel over sth (v)
23. regard for law or custom
24. regime (n)
25. renege on sth (v)
26. statute books
27. subject sb to sth (v)
28. switch allegiance to sb
29. try sb for sth (v)
30. turn up at court
31. venture (n)

TASKS

1. Decide if the statements are true (T) or false (F).

1. King John confiscated church property to sell it and buy lands overseas.
2. Not all barons openly opposed King John's policies.
3. According to the article, John often showed lack of courage and bravery.
4. Magna Carta restricted the rights of the church.
5. Magna Carta protected the rights of common people.

2. Insert the correct prepositions where necessary.

- a) Which event led the signing of this document?
- b) He did not succeed his attempts to find the necessary evidence.
- c) The principles of the Magna Carta developed the laws of Henry II.
- d) His demand for compensation is based the fact that he had been injured.
- e) The politician decided to break the unanimity principle and join the opposite party.
- f) The Cabinet declared the bill, however, the Shadow Cabinet declared it.
- g) The members of the House of Lords are appointed to their posts or inherit them; contrast, members of the House of Commons are elected by voters.
- h) The best means decreasing the crime rate in the country is not punishing offenders and criminals but preventive work.
- i) People's rights should not be violated common Law.
- j) The solicitor is prominent the family law matters.
- k) Quite unexpectedly, no witnesses turned court on the day and the hearing was to be postponed.
- l) At those times it was common to try people such crimes as witchcraft or wizardry.
- m) After his threats met no success, the claimant went the law.
- n) It is impossible to understand who started the quarrel the property not mentioned in the will.
- o) The judge said that the defendant had no regard law or judge and fined him.
- p) To finish this war, it is no enough to patch a truce. The countries need to change the attitude to each other.

- q) How can you account for the lack light on the stairs that led the accident?
- r) Did you sell the property of the deceased to hide your crime or a profit?
- s) John invaded Ireland.
- t) People say the pledge of allegiance their country on such occasions as joining the army.
- u) The crime was carried out of revenge, as the defendant has a grudge the claimant.

3. Match the words to their definitions.

- | | |
|------------------|---|
| 1. Allegiance | a) a business project or activity, especially one that involves taking risks |
| 2. Allegiance | b) a condition or an arrangement in a legal document |
| 3. Article | c) a law that is passed by a parliament, council, etc. and formally written down |
| 4. Chapter | d) a method or system of government, especially one that has not been elected in a fair way |
| 5. Clause | e) a period of government by a person who rules a country in place of the king or queen |
| 6. Confiscate | f) a person's continued support for a political party, religion, ruler, etc |
| 7. Exact | g) a separate item in an agreement or a contract |
| 8. Excommunicate | h) an item in a legal document that says that a particular thing must or must not be done |
| 9. Negotiation | i) formal discussion between people who are trying to reach an agreement |
| 10. Regency | j) the fact of a child being cared for by a guardian or of being protected by a court |
| 11. Regime | k) the process of using a court to settle a disagreement or to deal with a complaint |
| 12. Stature | l) to admit that you have been defeated and want to stop fighting |
| 13. Surrender | m) to demand and get sth from sb |
| 14. Venture | n) to officially take sth away from sb, especially as a punishment |
| 15. Wardship | o) to punish sb by officially stating that they can no longer be a member of a Christian Church, especially the Roman Catholic Church |

4. Match the synonyms.

- | | |
|-----------------|--------------|
| 1. Chapter | a) armada |
| 2. Dispute | b) attempt |
| 3. Disreputable | c) capture |
| 4. Effort | d) clause |
| 5. Fleet | e) crucial |
| 6. Invade | f) peace |
| 7. Launch | g) protect |
| 8. Pivotal | h) quarrel |
| 9. Retreat | i) start |
| 10. Safeguard | j) unsavoury |
| 11. Truce | k) withdraw |

5. Form nouns from the following words.

- a) invade —
- b) coward —
- c) violent —
- d) appoint —
- e) hostile —
- f) exact —
- g) solve —
- h) exploit —
- i) reinforce —
- j) withdraw —
- k) resist —

6. Fill in the gaps with the most suitable words to complete the collocations.

Balance, promise, money, hands, failure

The concert was organized to raise for the orphan-ages in the south of the country.

The crisis of the pre-electing campaign left the country in the

The hostage may have fallen into the kidnappers' just by chance.

They doubt he will be able to carry out his because he had broken it so many times before.

Unfortunately, his plans met with and he had to resign.

TEXT 5 (13,600 SIGNS)

Read and translate the text.

GARY SLAPPER. THE CASES THAT CHANGED BRITAIN. PART I: 1770–1870

1. Davis v East January 8, 1788

This decision was a classic early example of the courts holding someone to the terms of a commercial bargain over goods whose quality he had inspected and accepted. The action was in Westminster, the defendant a cabinet maker who had agreed to purchase 13 mahogany logs for £18. The seller argued that the wood should be paid for as agreed but the buyer said that the batch of logs was worthless, as it differed from some of the samples he had inspected. There were holes in it “so great that you might put your head into them”; according to one wood expert, it was the “worst he ever saw”. But the verdict went in favour of the claimant, who was entitled to be paid the agreed price of £18 by the cabinet maker because the sale batch was, in general, the quality of wood he had agreed to buy.

2. Ormond v Payne July 9, 1789

This colourful case involving a butcher and a prince’s coachman embodied the metropolitan bustle of the age; it was also notable in the development of personal injury actions. It concerned an ordinary man who was injured by a royal carriage. The claimant, George Ormond, was a butcher who lived in Turnham Green, West London. The defendant, Don Payne, looked after the affairs of the Prince of Wales at Carlton House. The butcher sued Payne after the Prince’s coachman, George Smith — for whom he was legally responsible under civil law — drove into the butcher’s cart, breaking his leg. The coachman, according to Ormond’s claim, was in a terrible hurry and “in liquor”. The moment the horses were harnessed and he had mounted the box, he had “called for a glass of gin, drank it, threw the glass violently upon the pavement, flogged his horses” and sped away at a gallop. The jury found that Payne was liable for the coachman’s actions and awarded £100 damages.

3. The King v Dodd

May 30, 1808

In the early 18th-century, investors poured money into the South Sea Company on the strengths of its hopes of a great trade with South America. In 1720 it collapsed. Many other companies failed around the same time, and joint stock organisations — whereby a company's capital comes from shareholders — were discredited and eventually banned under the so-called “Bubble Act”. In 1808 the Act was used controversially against a businessman named Dodd. He had published a couple of prospectuses hoping to raise £50,000 by issuing shares but Lord Ellenborough, the Lord Chief Justice, ruled that such a scheme was unlawful. He said he hoped others would not engage in similar “mischievous and illegal projects”. In other words, commercial activity in 1808 was restricted to unincorporated partnerships, under which each partner is liable for all the business. Companies as we know them did not really become popular until the Companies Act 1844.

4. R v Burdett

November 28, 1820

The defendant, Sir Francis Burdett, was charged with seditious libel after he wrote a letter containing strong expressions about the conduct of the Government in dispersing the “mutiny” at St Peter's Fields in Manchester on August 16, 1819. The letter claimed that unarmed men and women had been “inhumanly cut down, maimed and killed by the King's Troops”. On the direction of Mr Justice Best that the letter was a poisonous libel, the defendant was found guilty, fined £2,000 and sentenced to three month's imprisonment. It was upheld on appeal.

5. Collins v Godefroy

January 18, 1831

Collins, a London lawyer, agreed to testify in a civil trial on behalf of the defendant, Godefroy, in exchange for a fee of six guineas. A subpoena was issued. After the trial, however, Godefroy said he did not need to pay as Collins was legally obliged to attend once the subpoena was issued. The court agreed, finding that Collins would have given no value (known in legal terms as “consideration”) in return for the promised fee.

6. Vaughan v Menlove

August 2, 1836

In this case, heard on the Oxford circuit, a man sued his neighbour after two cottages burnt down because of a fire that started on the neighbour's

property. The neighbour had been told that a hayrick was a fire risk but ignored the advice. The court held that the claimant was entitled to compensation for his two cottages because the neighbour had been negligent. The case was notable for the test of negligence it used, which was to later become very influential. Mr Justice Patteson told the jury that they must decide whether the defendant, the hayrick owner, had acted as a man of “ordinary skill and judgment” would have acted under the circumstances.

7. Priestly v Fowler

January 17, 1837

In this case, a butcher was sued by an employee who broke his thigh and collarbone after he was thrown off a van loaded with meat. The court ruled that the employer was not liable under common law for an injury done to an employee because of the negligence of a fellow employee. The injured worker was presumed to have entered into his contract of employment with the full knowledge of the risks involved. This doctrine of “common employment” set the legal scene for the entire Industrial Revolution and prevented millions of negligently injured workers from suing. It was not abolished until 1948.

8. Attwood v Small

March 27, 1838

This case established an important point on the principle of misrepresentation in contract law. Mr Small purchased a mine and ironworks in Staffordshire from Mr Attwood. The sale went through after the property had been inspected by Small’s own experts. Six months later, he discovered that he had been misled. He sought to rescind the contract on the ground of misrepresentation. The House of Lords held that the action must fail because Small had not just relied on the statements of the defendant but on the reassurance of independent reports he had commissioned.

9. M’Kinnell v Robinson

May 1, 1838

The defendant borrowed £30 from the claimant. In lending it, the claimant knew that the money was to be used in playing Hazard, an illegal game of chance. It was held that the claimant could not recover this sum as it was lent for the express purpose of a violation of the law. The decision consolidated the principle that the law will not enforce a contract for an illegal purpose.

10. Stockdale v Hansard

April 26, 1839

This case was important for the way it clarified the powers of Parliament. Stockdale, who published an explicit medical book, sued Hansard, the publisher of Parliamentary proceedings, for defamation. He claimed he had been libelled in a prison inspector's report published by Hansard that said his medical text was "disgusting and obscene". Hansard said it was entitled to publish the inspector's report as it was protected by parliamentary privilege. The court held that such a protective privilege did not exist. Publication of the report in question was not authorised by an Act of Parliament but merely by a vote of the House of Commons. In other words: an Act is supreme and can create law, but a simple resolution from the House of Commons, such as in this case, does not bind the courts.

11. Inquest into death of Bridget Groke

January 4, 1840

This coroner's case is a vivid example of the sort of deprivation common to the era. Headed "Horrid case of destitution", this harrowing inquest looked at the death of a three-year-old girl who had died in Sandgate, London. The verdict of the jury was one of "death by natural causes", although a number of factors were cited in the case including the general and social conditions at the time and the behaviour of an "inhuman mother". Something of the flavour of the story can be gathered from the opening paragraph: "It is almost impossible to convey the slightest idea of the retched hovel in which the deceased child was found . . . The room was low and naturally dark; and the light of a fire sent an unearthly glare around the place where the author of the recently published *Fortunes of Godolphin* [Nicholas Michell] might have gained many an idea, which might have enabled him to make the Sepulchre more descriptive where the gypsy was entombed alive."

12. R v St George

August 10, 1840

At a trial for attempting to fire a loaded firearm, the court considered whether, by pointing an unloaded pistol at someone, a common law assault had been committed. George Hanbury St George had been indicted for pointing the pistol at Bruce Ernest Darant and attempting to pull the trigger with intent to murder him. The court decided that it was an assault if the weapon had the appearance of being loaded (thus causing "fear and alarm") and the range was such that it would have endangered life if it had been fired.

13. Merry v Green**February 13, 1841**

Finder's keepers? Not in this case. The claimant purchased a bureau at a public auction sale and afterwards discovered a secret drawer that, unknown to anyone at the time of the sale, contained a considerable sum of money. The Court held that lawful possession of the money had not passed to the claimant.

14. Quarrier v Coulson**January 28, 1842**

This case arose from the gambling of an army captain who was alleged to be "of intemperate habits" and addicted to gambling "when in a state of intoxication". Money was lent to him for the purposes of gaming at public tables in Germany, where it was lawful. The court held that his debts could be recovered in the English courts as such an action could have been maintained successfully in Germany.

15. Foss v Harbottle**March 27, 1843**

This was a ruling of major significance in company law. The law has since been revised but this case is necessary to understand many company cases as it is always referred to. Two shareholders in the Victoria Park Company brought an action against the company's directors for fraudulently acquiring, at inflated prices, property in which the directors had a personal interest. They were also sued for making false statements at company meetings. What this case decided was that when a director of a company acted in breach of his duty, only the company — and not individuals — could be the claimant in an action to secure a remedy. A similar rule applies today, although there are now, under the Companies Act 2006, circumstances in which individual shareholders can pursue actions against directors for some breaches of duty.

16. R v Millis**February 24, April 4, 1844**

In this dispute over whether a marriage was valid, the House of Lords ruled that a marriage must be contracted *per verba de praesenti*. That means by words exchanged as an agreement in the present tense as opposed to in the future tense. The betrothal words had to be in phrases such as "I take thee to be my wife" and "I take thee to be my husband" — not "I will take thee". That had been recognised before but in this case the Lords decided that for a valid marriage such betrothals also had to be done in front of a priest.

17. R v Hall (alias Rollins)

April 3, 1845

Thomas Hall, alias Rollins, “a poor man not possessed of a farthing, or a farthing’s worth in the world”, was indicted for bigamy. His first wife, Mary Ann, had robbed him then “sallied forth” with their child and set up another family with another man. Hall went to try to have her apprehended but was beaten up by Mary Ann’s new lover. Hall gave up trying to get her back and eventually remarried, but without divorcing Mary Ann first. In an unusually sardonic judgment, Mr Justice Maule, sitting at Warwick, said his later marriage was understandable but that Hall should have procured a divorce in the way a rich man would — by going to the House of Lords and ecclesiastic courts and spending up to £600. Being poor was not an excuse, the judge said. He hoped the four months hard labour he gave Hall would be a warning about the dangers of trifling with matrimony.

18. Hartley v Ponsonby

June 5, 1857

If you want to sue over a contract, you must prove you have given the other party something of value, as this ruling demonstrates. The facts were these: 19 out of 36 of a ship’s crew deserted, leaving it short of hands to complete its voyage safely. In order to persuade the rest of the crew to keep going, the master promised to pay each an additional 40. When the ship was safely back in port, the master refused to pay, saying the seamen had merely done their jobs. But a court held that the men were entitled to the money. Their original agreement didn’t require them to sail the ship if it became unseaworthy, therefore the master’s promise constituted a new contract.

19. Pearce v Brooks

April 18, 1866

Another landmark case demonstrating that the courts will not enforce contracts that have been made for an unlawful purpose. A firm of coach-builders supplied a prostitute, Miss Brooks, with a brougham, a closed carriage. She did not pay the hire charge, so they sued her. But the court decided that the claimant’s action must fail: the contract was void because, in supplying the brougham in the knowledge that it was to be used for prostitution, the firm had contributed to an immoral act.

20. Foster v Mackinnon

December 15, 1868

This was a key decision in illustrating the idea that someone can’t be held to an agreement if he was tricked into entering it. To be held to a con-

tract you must have made it freely and voluntarily. In this case, an old and feeble man was induced into signing his name on the back of a bill of exchange, believing that he was signing a guarantee. The court decided that because he signed without knowing it was a bill of exchange and hadn't been negligent in signing, he should be released from liability.

GLOSSARY

1. abolish (v)
2. act in breach of sb's duty
3. act under the circumstances
4. agreed (part)
5. alias (adv)
6. allege sb to do sth (v)
7. apprehend (v)
8. as agreed
9. at a trial for sth
10. award ... damages (v)
11. ban (v)
12. bigamy (n)
13. bind the court (v)
14. borrow from sb (v)
15. bring an action against sb (v)
16. by a vote of sb
17. case involving sb (n)
18. cause "fear and alarm" (v)
19. charge with sth (v)
20. cite (v)
21. claim (v)
22. claimant (n)
23. clarify (v)
24. commercial bargain over sth (n)
25. commit an assault (v)
26. common law assault (n)
27. consideration (n)
28. consolidate a decision (v)
29. constitute (v)
30. contract a marriage (v)
31. contract law (n)
32. contribute to an immoral act (v)

33. coroner (n)
34. court (n)
35. cut down (v)
36. death by natural causes (n)
37. defamation (n)
38. defendant (n)
39. deprivation (n)
40. destitution (n)
41. discredit (v)
42. divorce sb (v)
43. doctrine of “common employment” (n)
44. ecclesiastic court (n)
45. endanger life (v)
46. enforce a contract (v)
47. entitled to do sth (part)
48. entitled to sth (part)
49. fail (v)
50. fee (n)
51. find sb guilty (v)
52. finder (n)
53. fine sb (v)
54. fire a loaded firearm (v)
55. for the purposes
56. fraudulently (acquire) (adv)
57. freely (adv)
58. general and social conditions
59. go in favour of sb (about the verdict) (v)
60. go through (v)
61. hard labour (n)
62. hear a case on sth (v)
63. hold a contract (v)
64. hold sb to the terms of sth (v)
65. illegal game of chance (n)
66. illegal purpose (n)
67. imprisonment (n)
68. in exchange for sth
69. in legal terms
70. in return for sth
71. indict for sth (v)
72. induce sb into sth (v)

73. inflated (prices) (part)
74. influential (adj)
75. inhumanly (adv)
76. inquest (n)
77. joint stock organisation (n)
78. judgment (n)
79. jury (n)
80. keeper (n)
81. key decision (n)
82. landmark case (n)
83. lawful possession of sth (n)
84. legally responsible for sth (adj)
85. lend (v)
86. liability (n)
87. liable for sth (adj)
88. libel (n)
89. libel (v)
90. look at sth (v)
91. Lord Chief Justice (n)
92. maim (v)
93. make a false statement (v)
94. matrimony (n)
95. mischievous (adj)
96. mislead (v)
97. misrepresentation (n)
98. negligent (adj)
99. negligent in doing sth (adj)
100. negligently injured (part)
101. of value
102. on behalf of sb
103. on the ground of sth
104. pass to sb (v)
105. pay the hire charge (v)
106. personal injury actions (n)
107. personal interest (n)
108. point on sth (v)
109. procure (a divorce) (v)
110. protective privilege (n)
111. purchase sth from sb (v)
112. pursue actions against sb (v)

- 113. reassurance (n)
- 114. recover debts (v)
- 115. refer to a case (v)
- 116. release sb from sth (v)
- 117. rely on sth (v)
- 118. require sb to do sth (v)
- 119. rescind (a contract) (v)
- 120. revise a law (v)
- 121. risks involved
- 122. rob sb (v)
- 123. rule (v)
- 124. ruling (n)
- 125. seditious (adj)
- 126. sentence sb to sth
- 127. set the legal scene
- 128. shareholder (n)
- 129. sign a guarantee (v)
- 130. so-called (adj)
- 131. subpoena (n)
- 132. sue sb over sth
- 133. supply sb in the knowledge (v)
- 134. test of negligence (n)
- 135. testify in a civil trial (v)
- 136. trick sb into sth (v)
- 137. trifle with sth (v)
- 138. unarmed (part)
- 139. under civil law
- 140. under common law
- 141. understandable (adj)
- 142. unincorporated (partnership) (part)
- 143. uphold on appeal (v)
- 144. use controversially against sb (v)
- 145. valid marriage (n)
- 146. verdict (n)
- 147. violation of the law (n)
- 148. void (contract) (adj)
- 149. voluntarily (adv)
- 150. warning about the dangers (n)
- 151. whereby (adv)
- 152. with intent to murder

153. with the full knowledge of sth

154. worthless (adj)

TASKS

1. Which text(s) dealt with the following crimes?

- a) assault
- b) breach of contract
- c) breach of duty
- d) bribery
- e) business fraud
- f) disorderly offence
- g) illegal contract
- h) immoral contract
- i) inflicting injuries
- j) invalid marriage
- k) libel
- l) misrepresentation
- m) negligence
- n) polygamy
- o) unlawful engagement
- p) unlawful income

2. Explain the difference between: *contract law*, *common law*, *civil law*, *company law*.

3. Insert the appropriate prepositions where necessary.

- a) Did the verdict go favour the claimant or the defendant?
- b) The committee held him terms of the agreement despite his threats.
- c) This complicated case involved three claimants and one defendant.
- d) They decided to sue the company for personal injuries caused by the badly-constructed chair.
- e) criminal law every motorist is responsible for careless driving.
- f) According the claim, the defendant was drink-driving during the accident.
- g) We will certainly decide who is liable the damages inflicted upon the house.

h) The claimant was awarded \$1200 damages.

i) I got the job the strength of your recommendation.

j) Speed is restricted 30 mph in towns.

k) Six suspects are being held the Prevention of Terrorism Act.

l) The officer was charged abusing his authority.

m) The company sued its employee stealing some money from its account.

n) In the end the defendant was sentenced a fine.

o) Everybody is sure that the verdict will be upheld appeal.

p) He was found innocent.

4. Match the words to their definitions. The figure in brackets indicates the number of the passage in which the word occurs.

- | | |
|--------------------|--|
| 1) Alias (16) | a) that is legally or officially acceptable |
| 2) Allege (13) | b) the activity of playing games of chance for money and of betting on horses, etc. |
| 3) Bind (9) | c) to force sb to do sth by making them promise to do it or by making it their duty to do it |
| 4) Consolidate (8) | d) to get back the same amount of money that you have spent or that is owed to you |
| 5) Enforce (8) | e) to give sth to sb else, especially after receiving it or using it yourself |
| 6) Gambling (13) | f) to go against or refuse to obey a law, an agreement, etc. |
| 7) Indict (11) | g) to make a position of power or success stronger so that it is more likely to continue |
| 8) Intent (11) | h) to make sure that people obey a particular law or rule |
| 9) Pass (12) | i) to obtain sth, especially with difficulty |
| 10) Procure (17) | j) to officially charge sb with a crime |
| 11) Recover (13) | k) to officially state that a law, contract, decision, etc. is no longer valid |
| 12) Rescind (7) | l) to state sth as a fact but without giving proof |
| 13) Valid (15) | m) used when a person, especially a criminal or an actor, is known by two names |
| 14) Violate (8) | n) what you mean to do |

5. Fill in the table.

| | Noun | Verb | Adjective / participle |
|----|-------------|-------------|-------------------------------|
| a) | Prison | | |
| b) | arms | | |
| c) | | defend | |
| d) | | | negligent |
| e) | | influence | |
| f) | danger | | |
| g) | | testify | |
| h) | title | | |
| i) | corporation | | |
| j) | | bind | |

6. Match the words to their definitions. The figure in brackets indicates the number of the passage in which the word occurs.

- | | |
|------------------------------|---|
| 1. Abolish (6) | a) a company that is owned by all the people who have shares in it |
| 2. Appeal (4) | b) a decision that is made by a jury in court, stating if sb is considered guilty of a crime or not |
| 3. Award (2) | c) a formal request to a court or to sb in authority for a judgement or a decision to be changed |
| 4. Case (2) | d) a question to be decided in court |
| 5. Circuit (5) | e) a regular journey made by a judge to hear court cases in each of the courts of law in a particular area |
| 6. Consideration (5) | f) a reward or payment for a service |
| 7. Incorporated (3) | g) a written order to attend court as a witness to give evidence |
| 8. Joint stock (company) (3) | h) formed into a business company with legal status |
| 9. Liable (2) | i) legally responsible for paying the cost of sth |
| 10. Maim (4) | j) the amount of money that a court decides should be given to sb who has won a case |
| 11. Seditious (4) | k) the conditions that people offer, demand or accept when they make an agreement, an arrangement or a contract |
| 12. Subpoena (5) | l) to injure sb seriously, causing permanent damage to their body |
| 13. Sue (2) | m) to make a claim against sb in court about sth that they have said or done to harm you |
| 14. Terms (1) | |
| 15. Verdict (1) | |

- n) to officially end a law, a system or an institution
- o) using words or actions that are intended to encourage people to oppose a government

7. Which of following are crimes or offences? The figure in brackets indicates the number of the passage in which the word occurs.

- a) assault (11)
- b) bargain (1)
- c) bigamy (17)
- d) breach (14)
- e) defamation (9)
- f) deprivation (10)
- g) destitution (10)
- h) hard labour (17)
- i) inquest (11)
- j) libel (4)
- k) matrimony (17)
- l) mutiny (4)

8. Match the offences from task 7 to the definitions given below.

- a) the act of refusing to obey the orders of sb in authority, especially by soldiers or sailors;
- b) using words or actions that are intended to encourage people to oppose a government;
- c) the act of printing a statement about sb that is not true and that gives people a bad opinion of them;
- d) the crime of attacking sb physically;
- e) the crime of marrying sb when you are still legally married to sb else;
- f) the act of damaging sb's reputation by saying or writing bad or false things about them.

9. Fill in the gaps with the most suitable words changing the form if necessary.

Inquest, destitution, deprivation, void, bargain, uphold, breach, matrimony, labour, maim

- a) He gambled, lost all his money and died in
- b) He was sentenced to two years with in a camp.
- c) At last the betrothed were united in holy
- d) The war resulted in there being many neglected children suffering from social

e) Hundreds of people are killed or in car accidents every week.

f) The of copyright means that some work of some author is published without their consent.

g) He reached a plea with the authorities.

h) The Court of Appeal is likely to the verdict.

i) A/an was held to discover the cause of death.

j) The contract was declared null and

10. Form the antonyms from the following words with the help of prefixes.

a) lawful

b) armed

c) famed

d) orderly

e) guilty

f) responsible

g) moral

h) legal

i) represent

j) lead

11. Fill in the gaps with the most appropriate words in the correct form.

procure, negligent, entitle, liable, mutiny, subpoena, coroner, breach, gambling, libel

a) A/an debt is not legally enforceable.

b) A/an action is being brought against the magazine that published the article.

c) The discontent among the ship's crew finally led to the outbreak of

d) Offenders will be to a heavy fine.

e) The recorded a verdict of accidental death.

f) The court her to appear as a witness.

g) The school had been in not informing the child's parents about the incident.

h) They us a copy of the report.

i) They were sued for of contract.

j) This ticket does not you to travel first class.

12. Change the form of the words so that it might suit the context.

- | | |
|--|-------------|
| a) He was sentenced to life for murder. | Prison |
| b) He is the prime in the case. | Suspicious |
| c) The incident caused a great deal of political | Mischievous |
| d) The company sued its rival for | Famous |
| e) People with papers are deported to another country. | Validity |
| f) The asked for a number of other offences to be taken into account. | Defence |
| g) The legislation will be difficult to | Force |
| h) That one mistake seriously the future of the company. | Dangerous |
| i) This led to his on allegations of conspiracy. | Indict |
| j) He was a compulsive and found it difficult to stop. | Gambling |

13. Match the synonyms.

- | | |
|------------------|---------------|
| 1. Acquire | a) abolish |
| 2. Allege | b) accuse |
| 3. Consideration | c) charge |
| 4. Indict | d) defamation |
| 5. Intent | e) illegal |
| 6. Libel | f) invalid |
| 7. Rescind | g) legal |
| 8. Summons | h) purchase |
| 9. Unlawful | i) purpose |
| 10. Valid | j) recompense |
| 11. Void | k) subpoena |

14. Underline the silent letters in the following words.

- a) rescind
- b) indict
- c) sue
- d) sign
- e) circuit
- f) subpoena
- g) guarantee

- h) debt
- i) parliament
- j) obscene

15. Write the words defined below.

a) the President of the Queen's Bench Division of the High Court of Justice, next highest in rank to the Lord Chancellor in the legal system of England and Wales;

b) a system of laws in England that have been developed from customs and from decisions made by judges, not created by Parliament;

c) an official judgment made in court;

d) someone whose job is to decide officially how a person died, especially if they died in a sudden or violent way;

e) a judge in a court;

f) the part of Parliament whose members are elected by the people of the country;

g) an official whose job is to discover the cause of any sudden, violent or suspicious death by holding an inquest;

h) the person in a trial who is accused of committing a crime, or who is being sued by another person;

i) a person who claims sth because they believe they have a right to it;

j) an owner of shares in a company or business.

16. Translate into English.

a) В соответствии с гражданским законодательством, стороны могут примириться друг с другом.

b) Ему возместили убытки в размере 300 долларов.

c) Ответчик был полностью освобожден от ответственности за результаты инцидента.

d) Работница проявила небрежность при мытье полов, что привело к травме посетителя.

e) Суд обязал работодателя привести контракт в исполнение немедленно.

f) В США вполне типично подать в суд на производителей различных продуктов за вред, нанесенный здоровью.

g) Коррупция и взятки не только являются преступлениями, но и способствуют противозаконной деятельности.

h) Суд решил, что дети умершего имеют право на часть наследства, хотя это противоречило завещанию.

i) Его семейные проблемы суд не посчитал достаточным оправданием для оскорбления прохожих.

j) Актер получил повестку, предписывающую явиться в суд через две недели.

TEXT 6 (19,000 SIGNS).

READ AND TRANSLATE THE TEXT.

GARY SLAPPER. THE CASES THAT CHANGED BRITAIN.

PART II: 1870–1916

1. Gorris v Smith

April 23, 1874

Statute law can only be applied to do what Parliament passed it to do. In this case, a ship owner agreed to take the claimant's sheep from Hamburg to Newcastle, but some of them were washed overboard. The owner of the sheep sued. He argued that no pens had been provided on the ship, in breach of a statutory duty under the Contagious Diseases (Animals) Act 1869, which required pens to be installed on the decks of ships used to transfer animals. If there had been pens on the decks, the sheep would have survived. However, the court ruled that the claimant could not claim damages on such grounds because the object of the statute was to protect animals from contagious disease, not from falling into the sea. The case is often cited by anyone seeking to show that once a law has been made for a particular purpose, it would be wrong to apply it for another.

2. Dickinson v Dodds

April 3, 1876

This was a classic decision that informed millions of commercial and contractual negotiations since. It says that if you make an offer you can withdraw it at any time before it is accepted. The case concerned the sale of a property by the defendant, John Dodds. Initially, Dodds agreed to sell it for £800 to George Dickinson, giving him a couple of days to accept. But Dickinson's letter of acceptance wasn't received until it was too late, and in the mean time Dodds sold the property to another man. Dickinson sought a court order to force Dodds to sell him the property but the court refused. It held that anyone making an offer was entitled to retract it at any time before it was accepted. By selling the property to someone else, Dodds had retracted his offer.

3. Seaman v Netherclift

December 16, 1876

In order to get the fairest and truest results from cases, it is very important that expert witnesses should speak freely and fearlessly. This case, in an era in which the use of expert witnesses was growing significantly, was a good illustration of how the courts were careful to give protection to witnesses against defamation actions. The defendant was a handwriting expert. He had given evidence in a case that a signature on a will was a forgery, though his view was not shared by the court. Later, in another case, also about a witness contesting a will, he expressed his opinion again during cross examination that the signature in the earlier case had been a “rank forgery”. That led to one of the attesting witnesses to that earlier will suing for slander. However, this case of slander was dismissed, as the remark was uttered in court while giving expert evidence and was therefore “privileged”.

4. Cundy v Lindsay

March 4, 1878

This landmark judgment upheld the principle that you can't pass on what you don't own. Lindsay & Co was a linen manufacturer based in Belfast. Alfred Blenkarn, a resident of Cheapside in London, wrote to Lindsay proposing to buy a quantity of goods. He gave his address as “37, Wood Street, Cheapside” and signed the letters without using an initial or first name so that his signature appeared to read “Blenkiron & Co”. Lindsay knew there was a respectable firm, W Blenkiron & Son, based at 123 Wood Street, so it sent the goods. But Blenkarn didn't pay, and instead sold the goods to the defendant. Lindsay sued the defendant for the value of the goods. The House of Lords held that because of the trick no contract had been concluded between Lindsay and Alfred Blenkarn. And because Blenkarn didn't legally own the goods, he couldn't legally transfer them to the defendant. Consequently, the defendant was ordered to pay Lindsay for the full value of the goods. Needless to say, as news of the decision percolated out into the commercial world, in which capitalism was rapidly developing, commercial buyers began to get very particular about ensuring sellers actually owned the goods they were selling.

5. Sturges v Bridgman

July 2, 1879

In a drama that sounds more like a story from an old British film comedy, this case formulated an important principle in the law of nuisance. A confectioner and physician occupied adjoining premises in

London. Dr Octavius Sturges lived at 85 Wimpole Street and Mr Bridgman at 30 Wigmore Street. As part of his business activity, for more than 20 years, the confectioner used two large mortar and pestles. The noise and vibration hadn't seemed to the physician to be a nuisance until he built a consulting room at the end of his garden, against the wall of the confectioner's kitchen, in which the mortars and pestles operated. Dr Sturges sought an injunction to stop the noise and won. The court decided that the confectioner, Bridgman, could not claim that long usage of the equipment had established a right to make such a noise. Rather, the nuisance had only begun when the new consulting room was — quite lawfully — built close to the source of the noise.

6. Munster v Lamb

May 9, 1883

For justice to be achieved, it is important that lawyers are uninhibited in their courtroom advocacy. The principle was illuminated in this case, made especially vivid by the fact that both the claimant and defendant were themselves lawyers. Munster was a barrister. During the trial of people accused of burgling his Brighton home, the defendants' solicitor, Lamb, suggested that Munster kept drugs in his home for immoral purposes. Munster later sued him for defamation. However, it was decided that Munster wasn't entitled to damages as Lamb's statement was made by a lawyer within the bounds of the privilege extended to advocates.

7. R. v Dudley and Stephens

November 7, 1884; December 10, 1884

This was one of the most famous and gruesome cases in English law. Can necessity ever be recognised as a reason for killing someone? The defendants, Thomas Dudley and Edward Stephens, were shipwrecked 1600 miles from the Cape of Good Hope along with another man and a cabin boy, Richard Parker. After 18 days adrift in an open boat, for seven of which they were without food, Dudley and Stephens decided to kill Parker and eat him. The other man refused to take part in the plan but on the 20th day adrift, Dudley and Stephens cut Parker's throat. They lived off his flesh and blood for another four days before they were picked up by a passing ship. Dudley and Stephens were arrested and tried. The court ruled that the killing Parker was an act of wilful murder; even the extreme situation they found themselves in was no defence. Both were sentenced to death, but there was another twist to the story: out of compassion, their sentences were later commuted to six months.

8. Robinson v Kilvert**March 16, 1889**

This case decided an essential point of law about what happens when, in an action for nuisance, it is clear that the claimant has only suffered because he or his goods are unusually sensitive. There is no nuisance if the claim has more to do with the claimant's sensitivity than the conduct of the defendant. Robert Henry Robinson occupied the ground floor of the defendant's premises in Garden Street, Manchester, for the purposes of storing brown paper. The defendant, a paper box maker, operated a boiler in the basement. After the boiler ruined Robinson's brown paper — even though it wouldn't have harmed any other paper and did not inconvenience his employees — he sought an injunction to restrain its use. But the court refused, holding that a man who carries on “an exceptionally delicate trade” cannot complain if it is spoiled by his neighbour doing something lawful in his property if it wouldn't harm an ordinary trade.

9. R v Tolson**May 13, 1889**

An exemplary instance of an appeal court using the common law inventively to prevent a manifest injustice. Martha Tolson received word that her husband, who had deserted her, had been lost at sea during a voyage to America. Five years after she last saw him, believing him to be dead, she remarried. But her first husband later returned from the US very much alive and she was prosecuted for bigamy. Under Section 57 of the Offences Against the Person Act 1861, which defined the crime, she did not have to have committed bigamy knowingly or intentionally for it to have been a crime. On the face of it, it was enough for a conviction for her to have remarried within seven years of her husband having deserted her. However, her conviction was quashed. The appeal court said that despite the absence of words such as “knowingly committing bigamy” or “intentionally committing bigamy”, which would have excused her, Ms Tolson was saved in this situation by an old common law rule. An “honest and reasonable belief” in the existence of circumstances that, if true, would make the accused's acts innocent, was a proper defence, the court ruled.

10. R v Halliday**December 16, 1889**

A decision that shaped a key principle of criminal law. James Halliday terrified his wife and daughter with threats of violence. His wife, in order to escape, began climbing out a window but her daughter grabbed her. Halli-

day shouted, “Let the bugger go”; the daughter did, and his wife fell and broke her leg. The appeal confirmed convictions against Halliday for an assault occasioning actual bodily harm and for maliciously inflicting grievous bodily harm. The law was expressed in this way: if someone creates in another person’s mind “an immediate sense of danger” causing that terrified person to try to escape, and in doing so the person sustains an injury, “the person who creates such a state of mind is responsible for the injuries which result”.

11. Christie v Davey

December 7, 1892

Everybody needs good neighbours. At what point the law can intervene when neighbours are not good is a matter of some importance; this case clarified the law in a way that has settled millions of disputes since. The case concerned a property at in Brixton. Holder Christie, the claimant, lived at the address with his musical family. His wife gave music and singing lessons; his daughter taught piano and violin; and his son played the cello until 11pm at night. In the adjoining semi-detached house, Fitzer Davey, an engraver, became irritated by the din. He described singing that resembled “the howlings of a dog” and dreadful “catgut vibrations”. To get his revenge, he maliciously blew whistles, shrieked and knocked on trays during the music lessons. The court held that such sabotage could be restrained by an injunction. The malice in Davey’s behaviour made his conduct unreasonable and a nuisance.

12. Carlill v Carbolic Smoke Ball Company

December 8, 1892

This was a hugely influential decision that went right to the heart of contract law. It is still cited every year in law exams and essays by thousands of law students. During a flu epidemic, Elizabeth Carlill, a writer and lawyer’s wife, bought a “smoke ball” from the Carbolic Smoke Ball Company. The company claimed its product — a small rubber ball with a tube attached, filled with carbolic acid that was flushed into the user’s nose — could cure the flu. Its adverts promised to pay £100 to anyone who used the ball but still got sick. Mrs Carlill bought a smoke ball, used it, and caught a cold. She successfully sued the company. Her case confirmed many modern contract principles. Incidentally, Mrs Carlill died 50 years later, aged 96, from influenza.

13. Wilde v John Sholto Douglas, Marquis of Queensbury**April 5, 6, 1895**

In 1895, The Times reported on three trials of Oscar Wilde. It was the celebrity scandal of the century. The Marquis of Queensbury, who thought his son was being corrupted by Wilde, sent a card to Wilde's club saying: "To Oscar Wilde posing Somdomite" [sic]. Wilde sued for criminal libel. Queensbury pleaded justification, accusing Wilde of soliciting more than 12 boys. The case had many marvellous episodes, particularly when Wilde was cross-examined:

COUNSEL: Have you ever adored a young man madly?

WILDE: I have never given adoration to anybody except myself.

Wilde lost after a fatal slip in cross-examination in which he seemed to say he hadn't kissed a boy not because he was a boy but because he was ugly. Soon after, he was arrested for indecency. Wilde was eventually convicted after a second trial — the first jury failed to agree on most of the charges — and sentenced to two years with hard labour. The case included many shocking travesties of justice. For example, it came to light that throughout the proceedings, the young men who were testifying against Wilde were each being paid 5 a week by the police, an enormous sum at the time. Nevertheless, Wilde's courtroom wit was bountiful. Asked by the seasoned 44-year old prosecutor Charles Gill whether he exalted youth, Wilde said he did and added, to courtroom laughter: "I should enjoy, for instance, the society of a beardless, briefless barrister quite as much as that of the most accomplished QC." He was asked later whether his habit of giving cigarette cases to working class youths was not strangely expensive. Wilde replied that it was "less extravagant than giving jewelled garters to ladies".

14. Salomon v Salomon**November 17, 1896**

Salomon v Salomon was an important case in clarifying the legal definition of a company. Aron Salomon, a boot manufacturer and leather merchant, set up a company in which he held nearly all the shares and was managing director. He loaned the company his own money and received debentures in return. He was therefore entitled to a sum of the company's assets. After the company later went into liquidation, Salomon sought to be treated as a "secured" creditor and to have his claim settled before those of other creditors. The House of Lords upheld his claim. It ruled that a company is separate from the individuals that compose it.

15. Wilkinson v Downton

May 10, 1897

The law against harming people is of immense importance in a civilised society. In defining a civil wrong in a new and clear way, this case was innovative. It created a tort of intentional infliction of mental shock. Thomas Wilkinson was a pub landlord on St Paul's Road in east London. One day, while he was at the races, a regular named Downton decided to play a practical joke on his wife, Lavinia. Downton "falsely, fraudulently and maliciously" told Lavinia that her husband had had a "smash up" and was lying injured at the Elms Public House in Leytonstone. On hearing this, Lavinia experienced a violent nervous shock. Even after the truth became apparent, she experienced weeks of suffering and incapacity. The court ruled that she was entitled to damages as the defendant had wilfully, calculatedly, caused her distress.

16. Percival v Wright

June 24, 1902

This case shaped company law for decades by limiting the legal power of shareholders. It involved a group of shareholders in a colliery company called Nixons Navigation that wrote to the company secretary offering to sell their shares. The chairman and two other directors bought the shares at a favourable price. They quietly rubbed their hands with glee, knowing that an offer was soon to be made by a third party for a substantially higher price. Shareholders later discovered their dubious behaviour and applied to the court to cancel the sale. They argued that the directors should have acted in a trustworthy way. However, the shareholders lost the case because the duty owed by the directors was to the company, not to them. The ruling curtailed shareholder power for much of the 20th-century, though shareholders can today sue in such circumstances.

17. Nash v Inman

March 6, 1908

A case loved by law students for its archaic language of social class. It is a nice illustration of how the social axioms of an era become embedded in law. The action was brought by a Savile Row tailor for £145 for clothes supplied to the defendant while he was an undergraduate at Trinity College, Cambridge. The son of an architect who had a town house in Hampstead and a country house near Havant, the defendant was legally a minor at the time and therefore only legally liable for contracts that were for "necessaries". The clothes supplied included, among other things, eleven fancy

waistcoats at two guineas each. It was shown that the defendant already had a good supply of clothes suitable to his status in life so the new ones were not “necessaries”. That meant the tailor lost his claim.

18. Walters v WH Smith & Son

October 30, 1913

How far people other than the police have the power to arrest each other is an intriguing question. This case set the rules for decades. A private shop detective arrested the claimant on suspicion that he had stolen a book from one of the defendant’s shops. It turned out he hadn’t. It was held that a citizen can make an arrest after an offence has been committed but the arrest will be lawful only if the accused was guilty and the arrester had “reasonable and probable cause” for his suspicion. That wasn’t so in this case and the claimant was awarded £75 damages for false imprisonment. Today, you can make a citizen’s arrest only if you satisfy a string of requirements, including that there were reasonable grounds for your suspicion and that you had reasonable grounds for believing that it was necessary to prevent injury, property damage or loss.

19. De Keyser’s Royal Hotel v Spicer Bros

January 24, 1914

There is nothing like noise nuisance to get people resorting to the law. The law here hinges on that most assuring and magical word: reasonable. This case sent soothing news to the sleep-deprived and sent reverberations through the construction industry. The defendants used a steam pile-driving machine during the night on a building site near the claimant’s hotel. It was held that in conducting building operations it is not reasonable and proper to operate a pile-driver at night if it means residents in an adjoining building cannot sleep. Such conduct was liable to be restrained by injunction. The injunction was granted to stop the work between 10.00pm and 6.30am.

20. R v Casement

July 19, 28, 1916

Sir Roger Casement, it is sometimes said, was hanged by a comma. This was a rip-roaring case about war, treason, syntax, punctuation, an ancient document and the noose. Casement was convicted during the First World War of conspiring with the Germans to further an Irish insurrection. The contentious punctuation mark appeared in some but not all versions of the law under which Casement was prosecuted, the Treason Act 1351. Ulti-

mately, the comma allowed the definition of a traitor to include someone whose treachery, such as Casement's, was committed outside the realm. In this case, Casement had made his plans in Germany. Before the final decision, two judges went to the Public Record Office to check with a magnifying glass what was on the original Statute Roll and Parliamentary Roll. Casement's appeal was rejected and on August 3, 1916, he was hanged at Pentonville prison.

GLOSSARY

1. accept an offer
2. achieve justice
3. act of wilful murder
4. actual bodily harm
5. adjoining (adj)
6. advocate (n)
7. appeal court
8. assets (n)
9. attesting witness
10. barrister (n)
11. bigamy (n)
12. bountiful (adj)
13. burgle (v)
14. calculatedly (adv)
15. cancel a sale
16. case concerned
17. celebrity scandal
18. civil wrong
19. civilised (adj)
20. claim damages (v)
21. clarify (a law, a legal point) (v)
22. come to light
23. commercial negotiations (n)
24. commute a sentence
25. conclude a contract (v)
26. confirm (v)
27. conspiring (adj)
28. contentious (adj)
29. contest a will (v)
30. contractual negotiations (n)

31. corrupt (v)
32. courtroom advocacy
33. criminal libel
34. cross examination (n)
35. defined the crime
36. desert (v)
37. din (n)
38. dismiss a case (v)
39. dubious (adj)
40. embed in law
41. employee (n)
42. engraver (n)
43. ensure (v)
44. escape (adv)
45. essential (adj)
46. establish a right
47. exalt (adv)
48. exemplary instance
49. experience a shock
50. expert witness
51. extend privilege
52. fatal slip
53. flu epidemic
54. for immoral purpose
55. force (v)
56. forgery (n)
57. formulate (n)
58. full value
59. further (adj)
60. get sb's revenge
61. give evidence (v)
62. give protection to sb (v)
63. go into liquidation
64. grow significantly (v)
65. gruesome (adj)
66. hang sb (adv)
67. harm (v)
68. hinge on sth (adj)
69. honest and reasonable belief
70. immense (adj)

71. in breach of sth
72. in return
73. incapacity (n)
74. indecency (n)
75. innovative (adj)
76. insurrection (n)
77. intentionally (adv)
78. intriguing (adj)
79. knowingly (adv)
80. law of nuisance
81. letter of acceptance (n)
82. limit the legal power
83. loan (v)
84. lose a case
85. make an arrest on suspicion
86. malice (n)
87. maliciously (adv)
88. manufacturer (n)
89. merchant (n)
90. minor (n)
91. no defence
92. noose (n)
93. occasion (n)
94. on a will
95. on such grounds
96. on the face of it
97. out of compassion
98. outside the realm
99. owe a duty
100. pass (v)
101. pass on what you don't own (v)
102. percolate (v)
103. play a practical joke on sb
104. plead justification
105. premises (n)
106. prevent a manifest injustice
107. prevent an injury
108. privileged remark (n)
109. proceedings (n)
110. proper defence

111. propose to do sth (v)
112. prosecutor (n)
113. quash (v)
114. rank (adj)
115. receive debentures
116. reject an appeal
117. remarry (v)
118. report on sth (v)
119. resort to the law
120. restrain sb by an injunction
121. restrain use
122. retract offer (v)
123. rip-roaring (adj)
124. sabotage (n)
125. satisfy a string of requirements
126. secured (adj)
127. seek a court order (v)
128. seek an injunction
129. semi-detached house
130. sense of danger
131. sensitive (adj)
132. sensitivity (n)
133. set a rule
134. set up a company
135. settle a dispute
136. share (n)
137. shipwreck (n)
138. signature (n)
139. slander (n)
140. sleep-deprived (adj)
141. smash up (v)
142. social axiom
143. solicit sb (v)
144. solicitor (n)
145. Statute law (n)
146. statutory duty (n)
147. sustain an injury
148. terrify(adv)
149. third party
150. threat of violence

- 151. tort of intentional infliction of mental shock
- 152. traitor (n)
- 153. transfer (v)
- 154. travesty of justice
- 155. treachery (n)
- 156. treason (n)
- 157. trick (n)
- 158. trustworthy (adj)
- 159. try sb (v)
- 160. twist (n)
- 161. undergraduate (n)
- 162. uninhibited (adj)
- 163. unreasonable (adj)
- 164. wilfully (adv)
- 165. withdraw an offer (v)
- 166. within the bounds of sth

TASKS

1. Answer the questions.

- a) In which case was the accused first sentenced to death but then to imprisonment?
- b) In which trial did the person charged make witty jokes?
- c) Which offence was committed in revenge?
- d) Which case mentions the rules that have changed greatly since the time of the trial?
- e) In which legal action was the accused sentenced to death and the sentence was actually fulfilled?
- f) In which case(s) were the matters of the language concerned?
- g) Which lawsuit(s) became a precedent for many other cases?
- h) Which trial(s) showed that a person was not responsible for the debts of the company which they managed?
- i) In which trial(s) did the accused confess to the crime unintentionally?
- j) Which lawsuit demonstrates the unlawful actions now commonly used in advertising?
- k) In which case was the defendant acquitted because they did not mean to commit a crime?

2. Which case(s) involved:

- a) garments
- b) noise
- c) lawyers' rights
- d) starvation
- e) disease
- f) humour and jokes
- g) unusually fragile materials
- h) family relationships
- i) neighbours
- j) animals
- k) verbal contact
- l) witnesses' rights
- m) shareholders' rights
- n) property matters
- o) nuisance

3. Write the words defined below.

- a) a false spoken statement intended to damage the good opinion people have of sb; the legal offence of making this kind of statement
- b) the crime of copying money, documents, etc. in order to cheat people
- c) the act of doing deliberate damage to equipment, transport, machines, etc. to prevent an enemy from using them, or to protest about sth
- d) an act that is not legal, honest or morally acceptable
- e) behaviour by sb that annoys other people and that a court can order the person to stop
- f) a secret plan by a group of people to do sth harmful or illegal
- g) the crime of doing sth that could cause danger to your country, such as helping its enemies during a war
- h) questioning sb carefully and in a lot of detail about answers that they have already given, especially in court
- i) to enter a building illegally, usually using force, and steal from it
- j) the crime of killing sb deliberately

4. Match the words to their definitions.

- | | |
|--------------|---|
| 1. Advocate | a) a lawyer in Britain who has the right to argue cases in |
| 2. Barrister | the higher courts of law |
| 3. Defendant | b) a lawyer who gives legal advice and prepares documents, for example when you are buying a house, and |
| 4. Lawyer | sometimes has the right to speak in a court of law |
| 5. Solicitor | |

- c) a person who defends sb in court
- d) a person who is trained and qualified to advise people about the law and to represent them in court, and to write legal documents
- e) the person in a trial who is accused of committing a crime, or who is being sued by another person

5. Match the words to their definitions.

- | | |
|-----------------|---|
| 1. Assets | a) a feeling of hatred for sb that causes a desire to harm them |
| 2. Debenture | them |
| 3. Defence | b) a person who is under the age at which you legally become an adult and are responsible for your actions |
| 4. Injunction | c) a situation in which a large group of people try to take political control of their own country with violence |
| 5. Insurrection | d) a thing of value, especially property, that a person or company owns, which can be used or sold to pay debts |
| 6. Malice | e) an official document that is given by a company, showing it has borrowed money from a person and stating the interest payments that it will make to them |
| 7. Minor | f) an official order given by a court which demands that sth must or must not be done |
| 8. Proceedings | g) something that you do in order to make sb suffer because they have made you suffer |
| 9. Revenge | h) something wrong that sb does to sb else that is not criminal, but that can lead to action in a civil court |
| 10. Tort | i) the process of using a court to settle a disagreement or to deal with a complaint |
| | j) what is said in court to prove that a person did not commit a crime; the act of presenting this argument in court |

6. Fill in the gaps with the most suitable words changing the form where necessary.

malice, asset, revenge, injunction, proceeding, cross-examination, defence, wilful, minor, hinge, dubious

- a) Everything on the outcome of these talks.
- b) He broke down under and admitted his part in the assault.
- c) He certainly bears you no and does not want to harm you.

d) Her include shares in the company and a house in France.

e) Her was that she was somewhere completely different at the time of the crime.

f) It is an offence to serve alcohol to

g) It was proved that the damage made to the house was intentional and

h) The bombing was in for the assassination.

i) There have been many people bringing legal against the firm.

j) They have obtained a/an restraining the company from selling the product.

k) They indulged in some highly business practices to obtain their current position in the market.

7. Insert the correct prepositions where necessary.

a) Can I buy you lunch return for your help?

b) A fund will be set for the dead men's families.

c) He contested the right of the pope to give them absolution.

d) There are hopes that the conflict can be resolved without resort violence.

e) I think it's time we sought legal advice.

f) She did it compassion only.

g) Much of the discount is pocketed by retailers instead of being passed to customers.

h) The food was excellent — I had no cause complaint.

i) She was detained suspicion of smuggling weapons inside her luggage.

j) He was convicted fraud.

8. Underline the most suitable variant.

1. My *barrister* / *solicitor* is no longer in practice.

2. The price is generally open to *cross-examination* / *negotiation*.

3. His conviction was later *quashed* / *claimed* by the Court of Appeal.

4. Police investigating the train derailment have not ruled out *sabotage* / *insurrection*.

5. Her *assets* / *property* include shares in the company and a house in France.

6. The newspaper was sued for publishing malicious *slander* / *libel*.

7. He is suing the company to *obtain* / *achieve* justice, not for gain or benefit.

8. I could not resist the opportunity to meet a real live *celebration* / *celebrity*.

9. If you have some doubts concerning the will, you can *contest* / *appeal it*.

10. The court granted an *injunction* / *incapacity* against the defendants.

9. Fill in the gaps with the most suitable words in the correct form.

forgery, example, deprivation, indecent, clear, uninhibited, employ, statute, privilege, will

a) A lack of oxygen may brain development in the unborn child.

b) The court held it was a case of misrepresentation and the defendant was found guilty.

c) Her behaviour was, and equally good were her grades.

d) Organizations have an interest in ensuring that motivation is high.

e) I am seeking of the regulations.

f) He's getting good at his mother's signature.

g) information is known only to a few people and is legally protected.

h) They were imprisoned and of their basic rights.

i) The authorities failed to carry out their duties.

j) He might have had the to apologize at least.

10. Translate into English.

a) Апелляция подсудимого была отклонена, и приговор был приведен в исполнение.

b) Из-за тяжелого состояния подсудимого приговор — одиночное заключение — был заменен на более мягкий.

c) Судам иногда приходится разбирать иски граждан к соседям о доставлении неприятностей.

d) В результате халатности владельца стоянки женщине были нанесены тяжкие телесные повреждения.

e) Многие граждане считают, что закон не должен вмешиваться в семейные дела, особенно в воспитание детей.

f) Палата Лордов поддержала иск и оправдала подсудимого.

g) Данный закон ограничивает право сотрудников внутренних дел на отпуск по уходу за ребенком.

h) Главным основанием для подозрений в том, что купюры были подделкой, была толщина бумаги.

i) Мировые судьи должны отвечать некоторым требованиям, касающимся их репутации.

j) Семья добивается судебного запрета на публикацию книги.

TEXT 7 (20,240 SIGNS).

READ AND TRANSLATE THE TEXT.

GARY SLAPPER. THE CASES THAT CHANGED BRITAIN. PART III: 1917–1954

1. Bowman and others v Secular Society Ltd

May 15, 1917

This case was of considerable historic significance in supporting the freedom of a citizen to leave his wealth to whom he wanted. It is also solidified a great principle of British freedom of expression by ensuring that no legal disadvantage fell on those with dissentient ideas. The House of Lords upheld the lawfulness of a bequest to a company whose aim was opposing Christian dogma. In making this decision the Lords overruled precedents going back over 50 years. The next-of-kin of a testator challenged the bequest to the society on the grounds that its objects were unlawful. The House of Lords decided that there is nothing contrary to the policy of the law in an attack on or a denial of the truth of Christianity or any of its fundamental doctrines, provided that such an attack or denial is couched in temperate language and did not constitute blasphemy as defined by the common law.

2. Phillips v Brooks Ltd

April 12, 1919

This is a classic case in the field of contract law. It was an alarm bell for any star-struck retailers prone to be a bit too impressed by any display self-importance. A man bought pearls and rings worth £3,000 from a jeweller's shop in Wardour Street, London after passing himself off as a wealthy gentleman from St James's Square. The cheque was dishonoured — the man was in fact an imposter named North, who pawned one of the rings for £350. After the jeweller sued, the court held that as the jeweller intended to make

a contract with the man in the shop, even though he was not who he said he was, the property had legally passed to him. North was legally entitled to sell it to a pawnbroker. The jeweller's attempt to get the ring back failed.

**3. R v Hurst and other Justices of Sussex, ex party McCarthy
November 10, 1923**

This is, indirectly, one of the most often quoted cases in English law. It was famous for the Lord Chief Justice, Lord Hewart's comment: "There is no doubt that it is not merely of some importance, but of fundamental importance, that justice must be done, and be manifestly and undoubtedly seen to be done". A driving conviction was quashed because one of the magistrates' clerks had an apparent conflict of interest: he worked for a law firm that acted for someone who was suing the driver in another case. No-one suggested the clerk behaved improperly, but it looked bad to have someone involved who was potentially partisan. The case cements a principle of fundamental significance to a civilised legal system: namely that all judicial processes must not just be fair but must never even be seen to raise a suspicion of unfairness. Public confidence in the law demands nothing less.

**4. Parkinson v College of Ambulance Ltd and Harrison
August 1, 1924**

In the realms of the oxymoronic, "buying honour" must sit alongside "open secret" and "larger half". But the attempt to purchase honours is not a recent development in British public life. In this case, the law set a clear precedent in how it should be treated. The secretary of a charity fraudulently promised Colonel Parkinson a knighthood if he made a large donation. Parkinson, accordingly, gave £3,000. But after he didn't receive a knighthood, he sued the charity and its secretary for breach of contract. It was held that a contract for the purchase of an honourable title is an improper and illegal contract since it is against public policy. As Parkinson knew he was entering into an improper and illegal contract he could not recover the money. A year later, such activity was also criminalised by statute law.

**5. R v Betts and Ridley
December 20, 1930**

Victor Betts and Herbert Ridley agreed to rob a man. The plan was simple: Betts would push him to the ground and seize his bag while Ridley waited in an escape car round the corner. But Betts struck the man with such force that the man died. They were both convicted of murder

and sentenced to death. Ridley's appeal failed. It was held that to be convicted it was not necessary that an accessory should be actually present when the offence was carried out. If the main criminal actor departed wholly from the scope of the agreement then he alone would be liable. But where the principal substantially complied with the plan and there was a departure only in the time, place or manner of execution of it, then the person soliciting the offence would be guilty of that offence, either as an "accessory before the fact" if he were absent and as a principal if he were present or nearby.

6. Tolley v J S Fry & Sons Ltd

March 24, 1931

This colourful case helped put advertisers on guard against unlawfully exploiting the reputation of public figures without their consent. It encompassed several elements cherished in Britain — sport, chocolate and scandal — and so its legal principle became widely understood. The defendant, a chocolate manufacturer, published an advertisement featuring a caricature of Cyril Tolley, a prominent amateur golfer. It depicted him playing golf with a packet of their chocolate protruding from his pocket. Pictured with him was a caddy, who likened the excellence of the chocolate to that of Tolley's drive. The ad was published without Tolley's knowledge or consent. He sued, alleging it constituted a libel. He said the ad was understood to mean that he had permitted his portrait to be exhibited for the purpose of advertising chocolate and that that he'd done so for gain and reward. This would mean that he'd prostituted his reputation as an amateur golf player for advertising purposes. He was awarded £500.

7. Bell and another v Lever Brothers Ltd and others

December 16, 1931

This case on directors' contracts caused quite a stir at the time. It concerned what happens when both sides to a contract make a mistake. Lever Brothers, the largest shareholder in the Niger Company, appointed Ernest Bell chairman of Niger's board at a salary of £8,000 a year. It appointed Walter Snelling as vice-chairman at a salary of £6,000 a year. Behind the company's back, the two executives speculated in cocoa, a commodity in which Niger dealt, which would have justified both being sacked. But it was for other reasons that their appointments were later cancelled. Unaware of their breaches of duty, Lever agreed to pay Bell £30,000 and Snelling 20,000 — a lot of money at the time — as compensation for terminating

their services. Later, Lever said it would have sacked them without pay if it had been aware of their breaches of duty. The company tried to get the money back but the House of Lords said the company's mistake wasn't sufficiently fundamental to allow it to avoid the contractual obligation to pay the compensation.

8. Fardon v Harcourt-Rivington

January 22, 1932

An important ruling on the law of negligence involving cars, pets, shopping and gore. Mr and Mrs Harcourt-Rivington of Langhan Street, London, left their car outside an entrance of Selfridges off Oxford Street. They left their large Airedale dog in the car while they popped in to the department store. For reasons unknown, the dog became excited and started jumping around, barking furiously. It pawed the rear glass window, shattering the window pane. Improbably, a shard of glass flew off into the eye of a passer-by, Oliver Fardon. Fardon's eye had to be removed. Were the couple liable to pay compensation? The House of Lords ruled that people should take care to guard against "realistic possibilities" but are not liable if we fail to guard against "fantastic possibilities". The accident in this case, the judges ruled, was a "fantastic possibility".

9. Donoghue v Stevenson

May 27, 1932

Among lawyers and law students this is probably the most famous case in British history. Never have so many cases flowed from a single formulation of law. On August 26, 1928, May Donoghue sat in the Wellmeadow Café in Paisley and drank the defendant manufacturer's ginger beer, which her friend had purchased for her. The bottle contained the decomposed remains of a snail. After drinking it, Donoghue suffered from shock and severe gastro-enteritis. As she could not sue under contract law since it was her friend, and not she, who had purchased the drink, she brought a claim on the alleged negligence of the ginger beer manufacturer. The case settled for £200. Lord Atkin, hearing the case, stated: "You must take reasonable care to avoid acts or omissions which you can reasonably foresee would be likely to injure your neighbour." Seventy-five years on, a mountain of cases has arisen from actions brought by citizens under this principle. Negligence cases in their millions have been brought against manufacturers, drivers, employers, government departments, doctors, local authorities, accountants, and even lawyers.

10. Haynes v G Harwood & Son**April 28, 1934**

This classic case concerned the duty a negligent person owes to someone who acts to rescue a victim of the negligence. The claimant, Thomas John Haynes, was a Metropolitan police constable. On August 24, 1932, a two-horse van belonging to the defendants was left unattended in Paradise Street, Rotherhithe. The driver had put a chain on one of the wheels (which was afterwards found broken), but for some reason, possibly because of a stone having been thrown at them by a boy, the horses bolted along the street, which was frequented by children. Constable Haynes was on duty inside the local police station. Seeing the runaway horses with a van attached coming down the street, he rushed out and eventually stopped them, sustaining a severe injury. It was decided that the defendants' employee was guilty of negligence in leaving the horses unattended in a busy street and that the constable's injuries were the natural and probable consequence of their negligence. He won £350 in damages.

11. Duncan v Jones**October 17, 1935**

In depressed economic times and with growing social discontent, the law dealt firmly with people wanting to exercise free speech. This case curtailed the extent of freedom of speech for decades. On May 25, 1933, Katherine Duncan addressed a meeting in Nynehead Street in London's New Cross, opposite the entrance of an unemployed training centre. The meeting led to a disturbance at the training centre and the superintendent called the police. A year later, about 30 people including Duncan held another meeting in the same street. Duncan was about to mount a box placed in the roadway when the chief constable told her that the congregation had to move to another street 175 yards away. She ignored him and began to step on the box to address the meeting; she was swiftly arrested and prosecuted for unlawfully and wilfully obstructing the police officer when in the execution of his duty. There was no obstruction of the highway except for the box and the presence of the people surrounding it. Neither Duncan nor any of the persons present at the meeting had either committed, incited or provoked a breach of the peace. Nevertheless, Duncan was convicted and fined. Her appeal was dismissed.

12. Sim v Stretch**July 23, 1936**

Although resembling a vivid 1930s theatrical farce, this case decided an important point of defamation law, clarifying how much can be read into certain types of communication. Herbert Stretch's housemaid left his service and

returned to work for another man, Sim, for whom she had previously worked. She re-entered Sim's service on April 12, 1934. On that date, Sim sent a telegram to Stretch informing him that "Edith has resumed her service with us today. Please send her possessions and the money you borrowed, also her wages to Old Barton." Stretch claimed these words were defamatory and that Sim was insinuating he had money troubles that forced him to borrow from his housemaid. It was held that the words complained of were not reasonably capable of a defamatory meaning and he lost the action.

13. Warner Brothers Pictures Inc v Nelson

October 20, 1936

This case formulated an important part of contract law. It said that an injunction will be granted to stop someone breaking a contract and going to work for a rival company if the term in their contract was not so severe as to face them with starvation unless they kept the contract. Before she was famous, the film star Bette Davis (original name Bette Nelson) signed a contract with Warner Brothers for one year. The studio had the option of extending it and Davis agreed she would not undertake other film work without its written consent. When she tried to make a film with another company, Warner sought an injunction. The court granted an injunction for the remainder of the contract or for three years, whichever was the shorter. Davis wasn't faced with the option "work for Warner or starve" because she could work for other companies so long as she didn't make films. In other words, the contract was not too oppressive, so she was bound by it.

14. Associated Provincial Picture Houses Ltd v Wednesbury Corporation

November 11, 1937

This was a landmark case in the development of judicial review. A local council had granted a licence to the claimants for them to open their cinema on Sundays. But the council imposed the condition that children under 15 were not to be allowed in. The company said that was "unreasonable" and therefore beyond the powers of the council. The Court of Appeal found that the condition was reasonable — however, Lord Greene, the Master of the Rolls, stated that in certain circumstances courts could declare administrative or governmental actions as unauthorised or unreasonable. His words crystallised into a hallowed and frequently cited proposition. He said the courts couldn't simply substitute their own opinion for that of the public body or official but they could invalidate a decision if it had been made in an unreasonable way. To be unreasonable, the decision would have to be one in which an

authority had “taken into account matters which it ought not to take into account”, or, conversely, has “refused to take into account or neglected to take into account matters which it ought to take into account”. The number of judicial review cases has risen dramatically from just a few a year in the 1950s, through 500 a year in the 1980s, to about 6,000 a year now.

15. Liversidge v Anderson

November 4, 1941

A graphic instance of a legal decision being influenced by the social environment in which it takes place. A ministerial power to make subjective judgments about a citizen's freedom was permitted in this controversial House of Lords' decision. During the Second World War, Robert William Liversidge of St James's Close in London's Regents Park, who was in Brixton Prison at the time of the action, challenged the legality of his incarceration. There was a defence regulation providing that a Secretary of State could make orders for the detention of people whom he had “reasonable cause” to believe were “of hostile origin or associations” and in need of subjection to preventative control. Liversidge was such a suspect. The regulation was interpreted as establishing a subjective test of reasonableness. In other words, it all depended on what the minister thought was reasonable, not what an outside, objective person might think. To establish the invalidity of a detention order, a detainee would have to prove that the Secretary of State did not genuinely believe he had reasonable cause. The case is also famous for a very powerful and florid dissenting speech from Lord Atkin, who said that even during war a minister should not have uncontrolled powers of imprisonment: “In this country, amid the clash of arms, the laws are not silent.”

16. Young v Bristol Aeroplane Company

July 29, 1944

This case was originally about a man, Young, who lost three fingers in an industrial injury involving unfenced machinery. But the judgment is important because it explains the circumstances in which the Court of Appeal can go against one of its earlier decisions. In addition to saying something about how factory machinery should work, the case sets the law on how the legal machinery should work. It decides, for example, that the Court of Appeal is not bound to follow a previous decision of its own if there are two earlier Court of Appeal decisions inconsistent with one another. The Master of the Rolls, Lord Greene, said the court is not bound to follow a decision of its own if it is satisfied that the decision was “given per incuriam” [through an

error], for example, where a statute or rule having statutory effect which would have affected the decision was not brought to the attention of the earlier court”.

17. Joyce v The Director of Public Prosecutions

February 2, 1946

This case settled a key point in the definition of the oldest statutory offence in England: treason. William Joyce broadcast fascist propaganda on the radio from Germany. He was popularly known as “Lord Haw-Haw”. The phrase had been used by Daily Express radio critic Jonah Barrington to describe the nasal tone of another broadcaster of propaganda, but eventually came to be associated with Joyce. He was an American citizen who moved to Ireland, then England and who got a British passport by falsely stating he was born in Britain. During the war, Joyce was captured by the British, brought back to England and charged with high treason. The charge said that, while owing allegiance to the Crown, he had “adhered to the King’s enemies”. But did Joyce remain under a duty of allegiance to the Crown as alleged? The jury said yes and so did the House of Lords. He was hanged at Wandsworth prison.

18. Hibbert v McKiernan

April 23, 1948

An early 17th-century proverb had it that “possession is nine points of the law”. This case is a good illustration of those important property disputes arising in every age that require clarification of the law. Harold Hibbert trespassed on some golf links owned by the Reddish Vale Golf Club and helped himself to some abandoned golf balls. In this appeal, it was held that he had been rightly convicted of larceny (the old name for theft) by the magistrates at Stockport. As owners of the land, members of the golf club had a proprietary right to goods left on the course.

19. Bolton v Stone

May 11, 1951

On August 9, 1947, Miss Bessie Stone was hit by a cricket ball while standing near her front gate on Beckenham Road in Manchester, 100 yards from the neighbouring cricket pitch fence. She sued the cricket club and lost. Balls had been hit over the 17-foot-high fence only about six times in the previous 30 years and never hit anyone. The House of Lords said that to get compensation for an injury, it had to be caused by something that could be anticipated by a reasonable man, whereas the risk taken by the club was

limited and not unreasonable. The law requires citizens to be careful toward one another but cases such as this have been helpful in determining just how far we are permitted to take risks.

20. Pharmaceutical Society of Great Britain v Boots Cash Chemists (Southern) Ltd

July 17, 1952, February 6, 1953

Changes in the economy require the law to adapt to suit new circumstances. This case is a classic instance of adaptation. The advent of super-market-style shops mean that it became necessary to determine where in the shop a contract of sale was finalised: when a customer places goods in their shopping basket or at the till? The Boots store in Edgware, London had been accused by the Pharmaceutical Society of selling prescription medicines to the public without the supervision of a registered pharmacist, as was legally required. On April 13, 1951, two people (acting for the Pharmaceutical Society) bought medicines containing a tiny amount of strychnine and codeine. That would have been an illegal sale if not supervised by a pharmacist. Was it in fact supervised? The Pharmaceutical Society said it wasn't supervised as the customers bought the products when they put them in their wire baskets. But the Court of Appeal ruled that the point of sale was at the till rather than when the customer puts something in their basket or trolley. As there was a registered pharmacist at the till, Boots had committed no offence.

GLOSSARY

1. accessory (n)
2. adaptation (n)
3. adhere to sb (v)
4. advent (n)
5. against public policy
6. alarm bell (n)
7. anticipate (v)
8. appoint sb chairman (v)
9. arise (v)
10. be bound by sth (v)
11. bequest (n)
12. beyond the powers of sth
13. blasphemy (n)
14. breach of the peace (n)

15. broadcast sth on the radio (v)
16. buy an honour (v)
17. cancel an appointment (v)
18. carry out an offence (v)
19. cause a stir (v)
20. chairman (n)
21. cheque (n)
22. chief constable (n)
23. compensation for (n)
24. conflict of interest (n)
25. consequence (n)
26. contract of sale (n)
27. contractual (obligation) (adj)
28. convict sb of murder (v)
29. course (n)
30. criminalise (v)
31. customer (n)
32. defamatory (adj)
33. denial (n)
34. detainee (n)
35. dishonour (v)
36. dismiss an appeal (v)
37. dissentient ideas
38. disturbance (n)
39. encompass (v)
40. enter into a contract (v)
41. escape car (n)
42. exercise free speech (v)
43. face sb with starvation (v)
44. fair (adj)
45. fall on sb (v)
46. feature a caricature (v)
47. finalise (v)
48. for gain and reward
49. foresee (v)
50. give a decision
51. golf links (n)
52. grant a licence to sb (v)
53. guard against "fantastic possibilities" (v)
54. high treason (n)

55. hostile (origin / associations) (adj)
56. impose a condition (n)
57. imposter (n)
58. in the execution of sb's duty
59. incarceration (n)
60. incite (v)
61. inconsistent with sth (adj)
62. insinuate (v)
63. invalidate (v)
64. judicial process (n)
65. larceny (n)
66. legal disadvantage (n)
67. local council (n)
68. Lord Chief Justice
69. lose an action (v)
70. magistrates' clerks (n)
71. make a donation (v)
72. make an order (v)
73. ministerial (power) (adj)
74. next-of-kin (n)
75. obstruct (v)
76. omission (n)
77. oppressive (adj)
78. option of extending (n)
79. owe allegiance (v)
80. partisan (adj)
81. pawn (v)
82. pawnbroker (n)
83. per incuriam [through an error]
84. points of law (n)
85. police constable (n)
86. preventative control (n)
87. propaganda (n)
88. proposition (n)
89. proprietary (right) (adj)
90. provoke (v)
91. public figure (n)
92. put sb on guard (v)
93. quote (v)
94. raise a suspicion (v)

95. recover money (v)
96. rescue (v)
97. retailer (n)
98. seek an injunction (v)
99. seize (v)
100. set a precedent (v)
101. significance (n)
102. solicit an offence (v)
103. solidify (v)
104. state falsely (v)
105. statutory effect (n)
106. subjection to sb (n)
107. superintendant (n)
108. sustain an injury (v)
109. take risks (v)
110. temperate (language) (adj)
111. terminate sb's services (v)
112. testator (n)
113. theft (n)
114. till (n)
115. treason (n)
116. trespass (v)
117. undertake work (v)
118. unemployed training centre (n)
119. unfairness (n)
120. unlawfully exploit (v)
121. victim of negligence (n)
122. wealth (n)
123. without sb's consent

TASKS

1. Which case/cases dealt with:

- a) advertisements
- b) animals
- c) beverages
- d) celebrities
- e) film industry
- f) meetings
- g) physical injuries

- h) religion
- i) sports
- j) trade
- k) wars
- l) wills?

2. Decide if the following statements are true (T) or false (F). Give your reasons using the text as example cases. Correct the false statements.

- a) It would not be a theft to take some abandoned property from somebody's land.
- b) British citizenship necessarily means that a person is under a duty of allegiance to the Crown.
- c) A person can not be convicted of murder if they actually did not kill anybody.
- d) It is illegal to bequeath property to sb who attack Christian doctrines, even if they are not guilty of blasphemy.
- e) You can not sue a manufacturer for goods of improper quality if you did not purchase them yourself.
- f) If a person suffers from somebody's negligence, they are sure to get compensation for the injuries.
- g) It is unlawful to break a contract and start working for another company unless you income is unreasonably low.
- h) In a shop, a person enters into a contract of sale putting a product into their basket.
- i) You can not sue for negligence if you entered the situation voluntarily.

3. Answer the questions.

- a) Which cases does the author of the article think were unfairly decided upon? Why?
- b) In which case a claimant would have been sued if the trial had taken place a year later?
- c) In which case a person was found in charge of a murder that he did not commit?
- d) In which cases did the claimants win the case despite their immoral behaviour?
- e) How is the idea of reasonability treated in the article? Prove your answer with examples.
- f) Which cases were particularly important as precedents?
- g) To which extent was the social status of the case participants important in the time described?

h) What were erroneous decisions treated by appellate courts in these decades?

i) In which cases was it the court's role to interpret the situation using common sense?

j) Which principles were introduced or cemented in the time?

4. Which crimes are defined below? In which cases are they mentioned?

a) the crime of behaving in a noisy or violent way in public

b) entering land or a building that you do not have permission or the right to enter

c) the crime of doing sth that could cause danger to your country, such as helping its enemies during a war

d) the crime of stealing sth from sb; an occasion when this takes place

e) behaviour or language that insults or shows a lack of respect for God or religion

5. Match the synonyms.

1. Anticipate

a) cancel

2. Bequest

b) course

3. Consequence

c) foresee

4. Customer

d) imprisonment

5. Incarceration

e) inheritance

6. Incite

f) offer

7. Larceny

g) provoke

8. Links

h) purchaser

9. Proposition

i) result

10. Terminate

j) theft

6. Which people mentioned in the article are defined below? Name the case(s) where they appear.

a) a person in charge of a committee, a company, etc.

b) a person or business that sells goods to the public

c) a person who has an important job as a manager of a company or an organization

d) a person who helps sb to commit a crime or who knows about it and protects the person from the police

e) a person who is kept in prison, usually because of his or her political opinions

f) a person who leaves somebody their property after their death

g) a person who lends money in exchange for articles left with them

- h) a person who makes, repairs or sells jewellery and watches
- i) a person who pretends to be sb else in order to trick people
- j) a person who takes part in a sport or other activity for enjoyment, not as a job
- k) a police officer just above the rank of chief inspector
- l) a police officer of the lowest rank
- m) a senior police officer who is in charge of the police force in a particular area
- n) an official in charge of the records of a council, court, etc.
- o) an official who acts as a judge in the lowest courts of law
- p) your closest living relative or relatives
- q) the President of the Queen's Bench Division of the High Court of Justice, next highest in rank to the Lord Chancellor in the legal system of England and Wales

7. Insert the correct prepositions where necessary.

- a) All of them are experts their chosen field.
- b) At the end of the speech he seemed to be moving the realms of fantasy.
- c) No punishment should fall those who were not in charge of the matter in question.
- d) He was arrested for obstruction of a police officer the execution of his duty.
- e) How much do I owe you for the groceries?
- f) We all had to pledge allegiance the flag.
- g) The report is inconsistent the financial statements.
- h) She adheres teaching methods she learned over 30 years ago.
- i) He is unlikely to ever recover his legal costs.
- j) The case was dismissed the grounds that there was not enough evidence.

8. Match the words to their definitions.

- | | |
|----------------|--|
| 1. Advent | a) a situation in which someone controls you and you have to obey them |
| 2. Bound | b) behaving in a calm and controlled way |
| 3. Insinuate | c) forced to do sth by law, duty or a particular situation |
| 4. Oppressive | d) relating to an owner or to the fact of owning sth |
| 5. Partisan | e) showing too much support for one person, group or idea, especially without considering it carefully |
| 6. Proprietary | |
| 7. Starvation | |

- | | |
|---------------|---|
| 8. Subjection | f) the coming of an important event, person, invention, etc. |
| 9. Temperate | |
| 10. Till | g) the place where you pay for goods in a large shop / store |
| | h) the state of suffering and death caused by having no food |
| | i) to suggest indirectly that sth unpleasant is true |
| | j) treating people in a cruel and unfair way and not giving them the same freedom, rights, etc. as other people |

9. Fill in the gaps with the words from the previous task changing the form where necessary.

- a) The article that he was having an affair with his friend's wife.
- b) The country gives shelter to people who have fled from regimes.
- c) He was patient, self-controlled, and in his habits.
- d) Before the of computers, not many people knew how to type.
- e) The pickpocket used the long queue at the to take the purse out of his victim's bag.
- f) The company has a/an right to the property.
- g) You are by the contract to pay before the end of the month.
- h) Many women in eastern countries are in legal to their fathers or husbands.
- i) Millions of citizens will face next year as a result of the drought.
- j) Most newspapers are politically and biased.

10. Fill in the gaps with the most suitable word in the correct form.

disturb, contract, fame, criminal, deny, thief, incarcerate, minister, valid

- a) He was charged with causing a/an after the game, which inflicted damage upon a dozen of people.
- b) Solitary is assumed to be quite a harsh punishment because it deprives prisoners of natural communication.
- c) The advertisement was considered as it depicted the celebrity in a perverted manner.
- d) The demanded to issue a writ of habeas corpus because he thought he had been arrested unlawfully or by mistake.

e) The terrorists issued a/an of responsibility for the attack which they had previously admitted committing.

f) The use of opium was not until fairly recently, but now it is a serious crime in majority of countries.

g) They reminded him of his obligations, which resulted in his threatening to resign.

h) This new piece of evidence his version of events, and his obvious lying makes him the major suspect.

i) Within months she was elevated to rank with lots of responsibilities and duties.

j) Police are investigating the of computers from the company's offices.

11. Decide if the following pairs of words are antonyms (A) or synonyms (S).

a) sack — appoint

b) solicit — accomplice

c) fraudulently — honestly

d) mount — descend

e) terminate — commence

f) substantially — considerably

g) quash — void

h) conviction — acquittal

i) dissentient — conventional

j) temperate — unrestrained

12. Translate into English.

Вторжение в чужое владение или противоправное пользование чужим владением без согласия владельца или лица, управляющего этой собственностью, наказуемо, даже если такое вторжение было непреднамеренным и без ущерба для собственности. Оно может быть совершено как человеком, так и объектом его деятельности (например, дерево, упавшее на территорию соседа). Нарушение владения с применением силы является уголовно наказуемым деянием, в остальных случаях оно рассматривается как деликт (гражданское правонарушение) и может стать поводом для предъявления иска. Часто вывешивается предупреждающая надпись: «Вход воспрещен. По нарушителям будет открыт огонь. Выжившие будут добыты».

**TEXT 8 (20,720 SIGNS).
READ AND TRANSLATE THE TEXT.**

**GARY SLAPPER.
THE CASES THAT CHANGED BRITAIN PART IV: 1955–1971**

**1. Entores Ltd v Miles Far East Corporation
May 18, 1955**

Another key case in which the law adapted to a social change: this time the advent of the telex (electric typewriters connected via cable systems). The decision had a huge impact on business. Under general principles in the law of contract, if there is to be an enforceable agreement, acceptance of an offer must be communicated to the person who has made the offer. Here, the court was concerned with the technicality of precisely where a deal for 100 tons of Japanese cathodes had been completed. The court had to consider at what point an acceptance made by telex (a precursor of the fax machine) in Amsterdam was “communicated” to the person receiving the message in London. Was it communicated when it was typed by the sender or when it was printed at the other end? The Court of Appeal decided the deal was made in London when the telex message was printed in that office.

**2. Bolam v Friern Hospital Management Committee
February 27, 1957**

In cases of alleged medical negligence there are commonly various schools of medical thought about how something should be done. This case gave guidance about how far a treatment must be accepted among doctors in order for it not to be seen as negligent if it goes wrong. An action for damages was brought by a psychiatric patient, John Bolam, for a fracture sustained during electro-convulsive therapy. Although he had signed a consent form, Bolam hadn’t been warned of the risk of fracture, which was one in 10,000. Nor had he been given relaxant drugs, which would have excluded the risk of fracture. However, the lawsuit failed. The court ruled that in order to prove negligence a doctor had to fall below a standard of practice recognised as proper by every responsible body of opinion. At the time it was not common practice to warn patients about the dangers of the treatment and many doctors were opposed to the use of relaxant drugs.

3. Sayers v Harlow Urban District Council

May 08, 1958

An amusing drama, this case also carried an important point about the law relating to accidents. Something of the mood of the case is heralded by the fact that The Times law report was headed “Lady Locked in Lavatory”. Eileen Sayers and her husband were on a coach trip to London from Essex. At one point on the journey, Mrs Sayers went to the lavatory but became locked in the cubicle. She injured herself when she fell trying to climb out using the toilet roll holder as a foothold. Although Mrs Sayers was successful in her claim for damages, the court found that she was guilty of some contributory negligence in the way she endeavoured to escape. She bore 25 per cent of the blame, and so the damages were reduced by that amount.

4. R v Smith

March 26, 1959

This gruesome case decided an essential principle of cause and effect in the law of murder. Is the chain of causation broken if a victim of violence is injured by someone else before he dies? Private Thomas Joseph Smith was convicted of murdering a fellow soldier whom he had stabbed with a bayonet during a barrack room fight. The victim received a pierced lung that caused a haemorrhage. He was taken to hospital. On the way, he was dropped twice. When he got to the hospital, the graveness of his condition was missed because the medical staff were so busy with other patients. Had the victim been given a blood transfusion his chances of recovery would have been as high as 75 per cent, but he received “thoroughly bad” treatment, including inappropriate artificial respiration, and died. Private Smith’s appeal concerned the “causation” of the death. He argued that while he had caused the victim’s wound he could not be held responsible for his death because the chain of unfortunate events after the injury had really killed him. But the court held that Private Smith had been rightly convicted. If at the time of the death, the original wound is still “an operating and substantial cause”, then the death can be said to be the result of the wound, even though some other cause of death is also operating. Only if the second cause is so overwhelming as to make the original wound merely part of the history can it be said that the death does not flow from the wound.

5. Chappell & Co and others v Nestlé and others

June 19, 1959

In the 1950s, giving away discounted goods in exchange for chocolate or candy wrappers was a popular marketing scheme. The law had to decide how this should work if royalties were payable on the discounted item.

Should the copyright owners get a percentage of just the discounted price paid by the customers, or should the royalty be based on the price of the item plus the value of the wrappers they handed in? In this case, Nestle, in a promotion for its chocolate bars, gave away a pop single, “Rockin’ Shoes”, in exchange for three wrappers and 1s 6d (about 8p) for postage. According to the law, Chappell, the publisher of the song, was entitled to 6.25 per cent of the “selling price” of each record. It sued Nestle. Chappell won the case as the House of Lords decided that the “selling price” on which their royalty should be based wasn’t just the 1s 6d but also included the value represented by the three wrapping papers. It didn’t matter that the actual papers themselves were of no intrinsic value (Nestle threw them away when they got them back from customers) as they were the value asked for by Nestle.

6. R v Penguin Books Ltd

October 21, November 3, 1960

This is a classic case on law, art and freedom of expression. On October 20, 1960, a jury of nine men and three women were handed unexpurgated copies of D H Lawrence’s *Lady Chatterley’s Lover* and instructed to read it. Its publishers, Penguin Books Ltd, were being prosecuted under the Obscene Publications Act, which allowed for literary and artistic merit to be considered in judging whether a work was obscene. The prosecutor, Mervyn Griffith-Jones, argued that the book had no substantial literary merit and merely advocated “coarseness and vulgarity”. He set the jury the following test: “Is it a book you would even wish your wife or servants to read?” But Penguin’s lawyer, Gerald Gardiner, QC, defended the use of four-letter words by arguing that if such language was depraved and corrupt then “95 per cent of the Army, Navy, and Air Force are past redemption”. The defence also called the novelist EM Forster, who said he knew Lawrence well and regarded him as the greatest writer of his generation; Cecil Day-Lewis also testified on his behalf. Penguin was acquitted and *Lady Chatterley’s Lover* went on to sell three million copies in a year.

7. Fisher v Bell

November 11, 1960

This was a classic decision determining a highly consequential point of retail law. The Restriction of Offensive Weapons Act 1959 made it an offence to offer for sale certain offensive weapons, including “flick-knives”. James Bell, a Bristol shop keeper, displayed a weapon of this type, an “ejector knife” selling for 4s, in his shop window. The Divisional Court held that he could not be convicted because, giving the words in the Act their tight,

literal legal meaning, Bell had not “offered” the knives for sale. Under the law of contract, placing something in a shop window is not, technically, an “offer for sale”; it is merely an “invitation to treat”. It is the customer who legally makes an “offer” to the shop when he proffers money for an item on sale. This decision has significance in other scenarios. What if a £2,000 multimedia system was mispriced in the shop window at £200? The decision in *Fisher v Bell* means that you can’t seal a contract by walking into the store and saying, “I accept”. The shop has the final say about whether it wants to make a contract with you and on the terms you offer.

8. Overseas Tankship (UK) Ltd V Morts Dock and Engineering Co Ltd January 19, 1961

This landmark case decides the test for working out whether a defendant who starts a series of unusual events is liable to pay compensation for the damage they cause. The ruling was by the Privy Council on an appeal from Australia but it also changed English law, as it was later followed by English courts. Through carelessness, furnace oil from a ship in Sydney harbour was spilt into a bay. The oil spread over the water to a wharf 600 feet away where wharf owners were carrying out repairs to a ship, including welding metal. Molten metal from the wharf dripped down on to floating cotton waste which ignited the furnace oil on the water. The wharf was badly burnt in the resulting fire. The wharf owners sued for damages but the court found that the ship owners could not reasonably have known that the furnace oil was capable of being set alight when spread on water. It was held that the test of liability for the damage done by fire was whether it was “reasonably foreseeable” in the circumstances.

9. Ridge v Baldwin March 15, 1963

This case cemented into English law a key principle of natural justice: that a court or tribunal cannot come to a fair decision unless both sides have been heard or have been given the chance to be heard. It was held by the House of Lords that the former Chief Constable of Brighton, Charles Ridge, had been unfairly dismissed in breach of the principles of natural justice. He had brought a legal action against George Baldwin of the Brighton police committee, in which he asked for a declaration that their termination of his appointment as chief constable was illegal and beyond the powers of the authority. At the core of his allegation was that at the appropriate time, no specific charge was notified to him and he was not given an opportunity of being heard. His solicitor was given an opportunity at one stage to address a

committee but had been given no particulars of the case against him. Lord Reid recognised the cherished principle of the law *audi alteram partem*, which means a judge in a dispute should allow both parties to be heard and should listen to the point of view of each, or at least given an opportunity of each to speak.

10. Hedley Byrne & Co v Heller & Partners Ltd
May 29, 1963

This House of Lords case took the duty of care into the realm of advice. The law had previously applied only to manufacturers, but this ruling affected everyone from architects to zoo consultants. It now applied to anyone who gave advice in the course of their job. It began when a bank phoned a merchant bank to check on the financial position of a potential client, Easipower Ltd, which wanted to borrow money to fund advertising. The bank promised the merchant bank would be “without responsibility” in providing the information. After Easipower went into liquidation, out of pocket advertising agents sued the merchant bank to recover their losses, but lost. They would have won were it not for the “without responsibility” disclaimer.

11. Eastham v Newcastle United Football Club Ltd
June 12, July 5, 1963

A court blew the whistle on Newcastle FC and declared a foul. This case affected the way football contracts worked across the land. The claimant, George Eastham, became a professional football player in 1956 when he was 19. He then transferred to Newcastle United, entering into an annual contract. A while later, he asked for a transfer but the club notified him that his services would be retained for the next season at his current wage. The club cited regulation 26 of the Football Association rules. This blocked him from getting a transfer and meant he could not play for another club in the UK or Ireland provided Newcastle offered him a “reasonable wage”. But the court decided that this was an “unlawful restraint of trade”.

12. D & C Builders Ltd V Rees
November 13, 1965

This decision was influential in clarifying the law whereby traders are bullied by customers into accepting a smaller payment. The claimant company consisted of two jobbing tradesmen, one a decorator and the other a plumber. They carried out work for Rees, the defendant, worth £482 13s 1d. For months, the builders pressed for payment. Finally, the defendant’s wife,

who knew that the company was in financial difficulties, offered 300 to settle the debt, saying that if that offer wasn't accepted nothing more would be paid. They accepted the £300 but later sued for the balance of 182 13s 1d. The court held that the company was not barred from recovering the balance by the agreement to accept a smaller sum because there was "no true accord". The defendant's wife had put pressure on the company to accept the £300 in settlement by threatening that if they did not accept nothing would be paid.

13. R v Jordan

May 13, 1967

Under the British constitution there is nothing more sacred or potent than a properly passed Act of Parliament. It is the most powerful legal instrument and can't be declared invalid by reference to any political principle. This case is a classic example of what that means in practice. Colin Jordan was sentenced to 18 months imprisonment for offences under the Race Relations Act 1965. He asked for legal aid to apply for a writ of habeas corpus (a process by which the authorities have to justify an imprisonment) on the grounds that the Act was invalid as it was a curtailment of free speech. It was held, dismissing his application, that Parliament was supreme and there was no power in the courts to question the validity of an Act passed by it.

14. R v Lamb

June 24, 1967

A dreadful human drama. In this case, the appeal court formulated an important rule about what does and doesn't amount to an unlawful assault. The appropriate state of mental blameworthiness must exist at the time of the defendant's conduct. Terence Lamb pointed a revolver in fun at a friend. He knew that there were two bullets in the revolver and also that neither of them was in the chamber opposite the barrel. But he didn't realise that when the gun was fired the cylinder would automatically rotate. He shot his friend dead. The judge directed the jury that they could convict of manslaughter if the accused had been grossly negligent or if the killing had occurred in the course of an unlawful act. He told them that the pointing and firing of the revolver amounted to an unlawful act even if the accused had not intended to alarm or injure. On appeal, it was held that the pointing and firing was only the *actus reus* (the physical conduct) of assault but there was no criminal assault without the *mens rea* (a blameworthy mind). Although the accused might have been criminally negligent, the trial judge hadn't properly explained to the jury what was required for there to be a criminal assault. His

direction to them on an unlawful act had been wrong and so the conviction was quashed.

**15. Barnett v Chelsea and Kensington Hospital Management Committee
November 9, 1967**

This is a leading case on cause and effect in the law of tort. It shows a how medical negligence might not be the legal cause of someone's injury or death if even good medical treatment would not have saved a patient. William Barnett was employed as a night watchman at the hall of residence at the Chelsea College of Sciences and Technology in London. On December 31, 1965, following celebrations with some friends at the hall, he went to hospital with symptoms that included continuous vomiting and cramp. The nurse telephoned a doctor. The doctor, who was himself unwell, instructed Barnett to go home and call his own doctor. He went away and died some hours later from what was later found to be arsenic poisoning. The court decided that although the doctor had been negligent in not seeing the man, the poisoning of Barnett was at that time so far advanced that even if the doctor had seen him he would have died. The hospital was found not liable — the death did not result from its negligence.

**16. Fagan v Metropolitan Police Commissioner
August 1, 1968**

A serious case (and one that decides an important point of law), but one posited on an extraordinary and comical set of facts. The court decided that although an omission to act cannot amount to an assault, the crime of assault will be committed if someone accidentally commits a battery which he then refuses to discontinue. Vincent Fagan drove his car on to the foot of PC David Morris in north London. It was most likely an accident, but when the PC said, "Get off, you are on my foot", Fagan replied: "F--k you, you can wait". Although Fagan soon relented and it had initially been an accident, his conviction for assault was upheld using what has become known as the "doctrine of the continuing act".

**17. Conway v Rimmer
May 4, 1970**

This is a case of major importance in constitutional law. At its heart it is about the judicial control of public authorities. A police officer, Michal Conway, had been prosecuted for theft of a torch. He was acquitted but sacked nonetheless. He began a civil action for malicious prosecution against his former superintendent in the Cheshire constabulary, Thomas

Rimmer. Conway wanted certain documents to prove his case, including reports about him relating to the prosecution. The Home Secretary objected to Conway getting the documents, saying that release of them would be “injurious to the public interest”. The House of Lords looked at the documents and disagreed. It said that where there was a clash between the public interest in withholding a document and the interests of justice in it being seen, the court could ask for documents, examine them itself and order their release if necessary. The police officer, however, eventually lost.

18. Home Office v the Dorset Yacht Company

May 7, 1970

In what circumstances Government departments owe a duty to members of the public is a point of momentous importance, and this case helped define the nature of that duty. The Dorset Yacht Company claimed that seven youths has escaped on the night of September 21, 1968 from the borstal institute on Brownsea Island and then boarded the yacht Silver Mist, cast her adrift and caused considerable damage to her and her contents. The company alleged that the Home Office was liable for the damage because of its negligence in failing to exercise effective control and supervision over the youths. The House of Lords held that public policy doesn't require that the Home Office is immune from legal actions in such cases. It did owe a duty of care. But to establish liability, it had to be proved that the Borstal officers were negligent in performing their duties to control and supervise the teenagers and that the particular damage that did occur was the sort of thing likely to result from such negligence. The case was later settled out of court by the Home Office.

19. Blackburn v The Attorney General

March 15, 1971

Amid great political controversy this case confirmed that there was no constitutional reason why the UK could not join the Common Market (now the European Union). Raymond Blackburn of Chiswick, in London, asked the judges as “the guardians of the British constitution” to explain the constitutional position in relation to the Government's application in 1971 to join the Common Market. He said that the Treaty's provisions could be validly accepted only if a new constitution was adopted with the consent of the British people. The Court of Appeal disagreed, saying that Parliament was competent to hand over some parts of its sovereignty if it wished, although this would not necessarily be binding on future parliaments.

20. R v Hudson and Taylor

March 19th, 1971

In some circumstances, someone who commits a crime may have a defence if it was committed under duress. Linda Hudson and Elaine Taylor were two girls from Salford who, as witnesses at a criminal trial in Manchester, gave false evidence. Their defence on charges of perjury was that they had previously been threatened by violent men that they would be “cut up” if they told the truth. One of the men had been sitting in court when they gave their evidence. At their trial the judge directed the jury that this was no defence and they were convicted of perjury. Quashing the convictions, the Court of Appeal held that duress was a defence to all offences (except murder as principal offender, and possibly treason) if the will of the accused had been overcome by threats of death or personal injury. To be a defence, the threat had to have been “present”, which meant “effective at the moment the crime was committed”. In this case, the threats of future violence were likely to have been present. They were no less compelling just because they couldn’t be carried out in the court room itself: they could have been carried out in the streets later that evening.

GLOSSARY

1. acceptance (n)
2. accident (n)
3. accord (n)
4. allow for sth (v)
5. amusing (adj)
6. annual (adj)
7. arsenic poisoning (n)
8. artificial respiration (n)
9. at sb’s current wage
10. at the core
11. audi alteram partem
12. bar from sth (v)
13. bay (n)
14. bayonet (n)
15. be past redemption (v)
16. beyond the powers
17. blameworthiness (n)
18. blameworthy (adj)
19. blood transfusion (n)

20. blow the whistle on sth (v)
21. borstal (n)
22. bully (v)
23. carry out work (v)
24. cast sth adrift (v)
25. chain of causation (n)
26. check on sth (v)
27. coach (n)
28. come to a decision (v)
29. commit a battery (v)
30. compelling (adj)
31. compelling (adj)
32. conduct (n)
33. consequential (adj)
34. constabulary (n)
35. contributory (adj)
36. controversy (n)
37. corrupt (adj)
38. cramp (n)
39. cubicle (n)
40. curtailment (n)
41. declare a foul (v)
42. defence on sth (n)
43. depraved (adj)
44. disclaimer (n)
45. discontinue (v)
46. discounted (adj)
47. dismiss (v)
48. duress (n)
49. endeavour (v)
50. enforceable (agreement)
51. eventually (adv)
52. exclude risk (v)
53. fail (v)
54. fax machine (n)
55. fight (n)
56. flick-knife (n)
57. foreseeable (adj)
58. former (adj)
59. fracture (n)

60. furnace oil (n)
61. give advice (v)
62. give false evidence (v)
63. give guidance (v)
64. go into liquidation (v)
65. graveness (n)
66. grossly (adv)
67. gruesome (adj)
68. guardian (n)
69. haemorrhage (n)
70. herald (v)
71. Home Office (n)
72. Home Secretary (n)
73. ignite (v)
74. immune from sth (adj)
75. impact on sth (n)
76. in breach of sth
77. in exchange for
78. in the circumstances
79. in the course of sth
80. inappropriate (adj)
81. injurious (adj)
82. jobbing tradesman (n)
83. lavatory (n)
84. law of tort (n)
85. law report (n)
86. literal (adj)
87. manslaughter (n)
88. merchant bank (n)
89. merit (n)
90. misprice (v)
91. molten (adj)
92. momentous (adj)
93. natural justice (n)
94. night watchman (n)
95. nonetheless (adv)
96. notify (v)
97. obscene (adj)
98. occur (v)
99. offensive weapon (n)

100. on sb's behalf
101. on the terms
102. out of pocket
103. overwhelming (adj)
104. particulars (n)
105. payable (adj)
106. perjury (n)
107. pierced (adj)
108. plumber (n)
109. police committee (n)
110. potent (adj)
111. potential client (n)
112. precisely (adv)
113. precursor (n)
114. press for sth (v)
115. Privy Council (n)
116. proffer (v)
117. prosecute (v)
118. provision (n)
119. psychiatric patient (n)
120. question (v)
121. relent (v)
122. residence (n)
123. restraint of trade (n)
124. restriction (n)
125. retail law (n)
126. retain (v)
127. royalty (n)
128. sack (v)
129. sacred (adj)
130. scenario (n)
131. settle a debt (v)
132. side (n)
133. sign a consent form (v)
134. solicitor (n)
135. stab (v)
136. supervise (v)
137. supervision (n)
138. sustain (v)
139. technicality (n)

- 140. threaten (v)
- 141. torch (n)
- 142. trader (n)
- 143. treatment (n)
- 144. treaty (n)
- 145. tribunal (n)
- 146. typewriter (n)
- 147. under a principle
- 148. unexpurgated (adj)
- 149. via (prep)
- 150. violence (n)
- 151. vomiting (n)
- 152. weld (v)
- 153. wharf (n)
- 154. withhold (v)
- 155. work out (v)
- 156. wound (n)
- 157. wrapper (n)

TASKS

1. Which case(s) dealt with:

- a) banks
- b) cars
- c) debts
- d) electronic devices
- e) escaped prisoners
- f) habeas corpus
- g) human error
- h) international policy
- i) literature
- j) manslaughter
- k) medicine
- l) police
- m) ships and other sea vessels
- n) shops
- o) soccer
- p) sweets
- q) threats
- r) transport?

2. Match the words to their definitions. The figure in brackets indicates the number of the passage in which the word occurs.

- | | |
|------------------------|---|
| 1. Annual (11) | a) a break in a bone or other hard material |
| 2. Bar (12) | b) a comfortable bus for carrying passengers over long distances |
| 3. Bully (12) | c) a medical condition in which there is severe loss of blood from inside a person's body |
| 4. Coach (3) | d) a person or thing that comes before sb/sth similar and that leads to or influences its development |
| 5. Compelling (20) | e) belonging to or part of the real nature of sth/sb |
| 6. Current (11) | f) happening now |
| 7. Dismiss (9) | g) having gained / lost money as a result of sth |
| 8. Endeavour (3) | h) protected from sth |
| 9. Fracture (2) | i) that makes you think it is true |
| 10. Haemorrhage (4) | j) the process of putting new blood into the body of a person or an animal |
| 11. Ignite (8) | k) to ban or prevent sb from doing sth |
| 12. Immune (18) | l) to finally agree to sth after refusing |
| 13. Intrinsic (5) | m) to frighten or hurt a weaker person; to use your strength or power to make sb do sth |
| 14. Out of pocket (10) | n) to keep sth; to continue to have sth |
| 15. Precursor (1) | o) to offer sth to sb, by holding it out to them |
| 16. Proffer (7) | p) to refuse to give sth to sb |
| 17. Relent (16) | q) to sack |
| 18. Retain (11) | r) to start to burn; to make sth start to burn |
| 19. Transfusion (4) | s) to try very hard to do sth |
| 20. Withhold (17) | t) yearly |

3. Fill in the gaps with the most appropriate words. Change the form where necessary.

bid, relent, duress, bar, intrinsic, withhold, stab, lawsuit, question, dismiss, particular, fracture

- These tasks were repetitive, lengthy and lacking any interest.
- She claims she from her post unfairly.
- A compound is one in which the broken bone comes through the skin.
- She him in the arm with a screwdriver.

- e) "Well, just for a little while then," she said, finally
- f) She was accused of information from the police.
- g) She filed a/an against her medical company.
- h) The police officer took down all the of the burglary.
- i) The team to retain its place in the league.
- j) The players from drinking alcohol the night before a match.
- k) He whether the accident was solely the truck driver's fault.
- l) He signed the confession under

4. Which crimes are defined below? In which cases are they mentioned?

- a) the crime of telling a lie in court
- b) the crime of killing sb illegally but not deliberately
- c) the crime of attacking sb physically (two words)

5. Write the words defined below. The figure in brackets indicates the number of the passage in which the word occurs.

- a) a bank that deals with large businesses (10)
- b) a claim or complaint against sb that a person or an organization can make in court (2)
- c) a condition or an arrangement in a legal document (19)
- d) a fact or detail especially one that is officially written down (9)
- e) a formal agreement between two or more countries (19)
- f) a lawyer who prepares legal documents, for example for the sale of land or buildings, advises people on legal matters, and can speak for them in some courts of law (9)
- g) a regular amount of money that you earn, usually every week, for work or services (11)
- h) a small detail in a law or set of rules, especially one that does not seem fair (1)
- i) a statement in which a person says officially that they do not claim the right to do sth (10)
- j) a sum of money that is paid to sb who has written a book, piece of music, etc. each time that it is sold or performed (5)
- k) a type of court with the authority to deal with a particular problem or disagreement (9)
- l) a type of prison for young criminals (18)
- m) conditions that you agree to when you buy, sell, or pay for sth; a price or cost (7)

- n) connected with sex in a way that most people find offensive (6)
- o) responsible for doing sth wrong (14)
- p) one of the two or more people or groups taking part in an argument, war, etc. (9)
- q) something that happens unexpectedly and is not planned in advance (3)
- r) something wrong that sb does to sb else that is not criminal, but that can lead to action in a civil court (15)
- s) the police force of a particular area or town (17)
- t) the relationship between sth that happens and the reason for it happening (4)
- u) threats or force that are used to make sb do sth (20)
- v) to have or express doubts or suspicions about sth (13)
- w) too bad to be saved or improved (6)

6. Fill in the gaps with the most suitable word in the correct form.

guide, contribute, blame, job, threat, refuse, foresee, note, injury, technical, curtail, supervise, unpurgated, pay, consequence, price, controversy, continue

- a) The report discusses a number of matters that are yet to be decided.
- b) She was released on a/an, which was thought unfair by many.
- c) Activities all take place under the of an experienced tutor.
- d) He was with dismissal if he continued to turn up late for work.
- e) I didn't know whether to interpret her silence as acceptance or
- f) The vendor the bowl and wrote 300 instead of 30.
- g) He claims he did not have a/an mind when hitting her in the face — she had fainted and he only wanted her to come round.
- h) It's unlikely that the hospital will be closed in the future.
- i) The film may shock the public if we do not some pieces.
- j) Alcohol is a/an factor in 10% of all road accidents.
- k) Winston Churchill and Richard Nixon were both figures.

l) Products that are to health must be removed from the store immediately.

m) He was a/an builder and did pieces of work for different people rather than a regular job.

n) Since the treatment did not help a bit, it was decided to it after three months.

o) The drug should only be used under medical

p) In the first instance, the police and then contact your insurance company.

q) The price is in monthly instalments.

r) The authorities had to face the accusations of the of civil liberties.

7. Insert the correct prepositions where necessary.

a) The news programme came to us satellite.

b) That one mistake left him thousands of pounds pocket.

c) We must come a decision about what to do next by tomorrow.

d) He was suffering some form of psychiatric disorder.

e) It is difficult to overestimate the impact of the current recession manufacturing.

f) Would you like my old TV exchange your camera?

g) The arrival of canals was great value to many industries.

h) I am appealing behalf of the famine victims.

i) We must allow human error.

j) The company has gone liquidation.

k) They agreed that she would buy the house easy terms.

l) The company reserves the right to cancel this agreement certain circumstances.

m) I've worked a new way of doing it.

n) Concern for the environment is the core of our policies.

o) I'll just go and check the children.

p) The informal expression "to blow the whistle sb" means to tell sb in authority about sth wrong or illegal that sb is doing.

q) They continued to press a change in the law.

r) I won't be bullied signing anything.

s) No one should be immune prosecution.

8. Underline the most suitable word.

- a) All *royalties* / *crowns* / *coins* from the album will go to charity.
- b) She died from arsenic *vomiting* / *cramp* / *poisoning*.
- c) He died from the *injuries* / *wounds* / *damages* he had received to his chest.
- d) He got undressed in a small *cubicle* / *lavatory* / *bathroom* next to the pool.
- e) He was checked for any signs of *transfusion* / *respiration* / *haemorrhage*.
- f) His memory is *potent* / *sacred* / *gross* to me.
- g) I couldn't pay the debt at once and I decided to *bar* / *carry out* / *settle* it by offering to pay in instalments.
- h) I heard stories of amusing / gruesome / overwhelming tortures in prisons.
- i) *In* / *on* / *at* the course of her job she has to give *an advice* / *advise* / *advice* to many clients.
- j) It was Chaucer who really turned English into a *literal* / *literary* / *literature* language.
- k) She tried to escape the unwanted attentions of her *previous* / *late* / *former* boyfriend.
- l) She's long *under* / *over* / *past* retirement age.
- m) Take out accident insurance before you go *to* / *on* / *for* your trip.
- n) The book is too long but, *nonetheless* / *eventually* / *adrift*, informative and entertaining.
- o) The court absolved him of all responsibility for the *case* / *incident* / *accident*.
- p) The crime of giving *wrong* / *deceitful* / *false* evidence is called perjury.
- q) The evidence was so *compelling* / *consequential* / *foreseeable* that he felt constrained to accept it.
- r) The main culprit in the *current* / *annual* / *foul* crisis seems to be modern farming techniques.
- s) The principle of *human* / *natural* / *lawful* justice is based on human reason alone.
- t) The rescue helicopter was flying over the *bay* / *wharf* / *furnace* in search of the escape boat.
- u) This *momentary* / *momentous* / *monumental* loss of concentration led to a serious car-crash.
- v) This movie is immoral and *corrupt* / *corrupted* / *illegal*.

9. Translate into English.

- a) Суд постановил, что он лжесвидетельствовал под угрозой физической расправы и потому был невиновен.
- b) Генеральный прокурор в настоящее время болен, и его обязанности исполняет его заместитель.
- c) Законность актов Парламента не может быть поставлена под сомнение.
- d) Убийство при самообороне в некоторых случаях считается не-преднамеренным.
- e) Министерство внутренних дел Великобритании должно действовать эффективно и в интересах государства и населения.
- f) Свидетель был застрелен насмерть, предположительно соучастником преступления.
- g) Врач отказался признать свою халатность, но через некоторое время сдался.
- h) Только суд может решить, что является, а что не является умышленным преступлением.
- i) В прессе обсуждается вопрос, какие государственные лица могут пользоваться неприкосновенностью, а какие нет.
- j) Борстал — это исправительное учреждение для преступников от 16 лет до 21 года; находящееся в ведении Министерства внутренних дел; первое такое заведение было открыто в Борстале, пригороде Рочестера, графство Кент, в 1902; в 1982 было переименовано в молодежный исправительный центр, а в 1987 в учреждение для малолетних преступников.

TEXT 9 (22,640 SIGNS).

Read and translate the text.

GARY SLAPPER. THE CASES THAT CHANGED BRITAIN.

PART V: 1972–2006

1. DPP v Ray

July 27, 1973

This case settled an important principle of law applicable to people caught legging it out of restaurants without paying. It has been applied countless times since. After eating a meal in the Wing Wah restaurant in

Gainsborough, Lincolnshire, Roger Ray, a university student, and his three companions decided not to pay. About 10 minutes later, after waiting for the waiter to leave the dining room, they made off. Ray was convicted under the Theft Act (now covered by the Fraud Act 2006) and the conviction was upheld by the House of Lords. The law lords ruled that Ray had impliedly stated in ordering the meal that he intended to pay, and that by remaining in his seat after deciding not to pay had ostensibly continued that earlier implied statement, thereby deceiving the waiter.

2. Haughton v Smith

November 22, 1973

What happens if someone is attempting to commit a crime that is legally impossible? Is it a criminal attempt? The House of Lords gave the answer in this cops and crooks caper. Police officers stopped a large van on the motorway travelling south from Liverpool and found it contained stolen goods. The police decided to allow the men to continue their journey along the motorway to a service area in order to catch the receivers. One of those waiting, Roger Smith, was later convicted of attempting to handle stolen goods, even though the Crown conceded that at the time of the alleged offence the goods, being in the lawful custody of the police, ceased to be stolen. But the decision was overturned by the House of Lords, which said there could be no conviction in such circumstances. In order to constitute the offence of attempting to handle stolen goods, the goods in question must be stolen. These goods were not because they were in the lawful possession of the police. It is not a crime to try to commit a crime that, in the circumstances, it is impossible to commit.

3. R v Kovacs

December 22, 1973

This influential criminal law case concerned what happens when someone gets an advantage from one person by having deceived another. Stephanie Kovacs knew that her bank account was overdrawn and that she no longer had authority from her bank to have possession or use of her cheque book or her cheque guarantee card. Nevertheless, she wrote a cheque to pay for a railway ticket costing £2.89. Her bank was bound, because of the cheque guarantee card, to honour the cheque, but Kovacs was convicted of dishonestly obtaining a pecuniary advantage (an increased overdraft) by deception. Her appeal was dismissed. The court held immaterial that the person deceived — the railway clerk — was not the person from whom the pecuniary advantage was obtained by the deception.

4. Jackson v Horizon Holidays Ltd

February 6, 1974

The sorts of compensation aggrieved holiday makers can claim when things go wrong was one of the key points decided in this case. A family holiday to Sri Lanka was not all it was cracked up to be. Julian Jackson, the father of the family, sued the tour operator and won an award of 1,100 damages for distress and inconvenience. The tour operator appealed. Several legal points were in issue. The court decided that damages for loss of a holiday may include not only the difference in value between what was promised and what was obtained but also damages for mental distress, inconvenience, upset, disappointment and frustration. It stated that where a person had entered into a contract on behalf of himself and others who were not parties to the contract, he could sue on the contract for damages or loss suffered not only by himself but also by the others in consequence of breach of the contract.

5. Van Duyn v Home Office

December 5, 1974

The UK joined Europe in 1972. This case a few years later concerned how European law should be applied — what was the status of a European directive? Yvonne van Duyn, a Dutch woman, wanted to enter the UK to take up employment with the Church of Scientology. She was refused entry and challenged the decision under a European directive guaranteeing the freedom of movement for workers. The High Court made a preliminary reference to the European Court of Justice (ECJ). The question arose whether the rights conferred under the Article of the EEC Treaty were directly applicable and enforceable by an individual in the courts of a member state. The ECJ ruled that the rights were enforceable without the need for further laws in each state to have been passed.

6. Attorney-General's Reference No. 1 of 1975

April 26, 1975

What does the law say in the case of someone who secretly puts alcohol in the drink of a person who then goes on to drive. Such a prank or plot is, of course, dangerous and potentially lethal. This case was an Attorney-General's Reference, a procedure by which the appeal court can rule on a point of law that the Attorney-General wants clarified. The Court of Appeal was asked to consider the position of an accused who had surreptitiously laced, with double measures of spirits, an otherwise innocuous drink of a friend when he knew the friend would shortly be driving home. As a result,

the friend was guilty of driving with an excess of alcohol in his blood. The driver was guilty in that the driving offence is one of strict liability — it doesn't matter whether you did it on purpose, or accidentally, just that you did it. It was held that the person accused of lacing drinks in these circumstances was guilty as a secondary party provided he knew that his friend was going to drive and also that the alcohol surreptitiously given would bring his blood-alcohol concentration above the prescribed limit. The Court pointed out that the "generous host" who kept his guest's glass topped up would not necessarily be guilty in the same way since in that case the guest would be aware of the contents of his glass and could make his own decision as to whether to drive.

7. R v Blaue **July 17, 1975**

In criminal law, can a wrongdoer defend himself by saying his victim's fate wouldn't have been so bad if she had not had the unusual beliefs she did have? This case answered that question. Robert Blaue stabbed the victim, who was taken to hospital. The victim, a Jehovah's Witness, was informed that without a blood transfusion she would probably die. She refused to accept a transfusion as it would have been contrary to her religious beliefs. The accused appealed against his conviction for manslaughter at Teesside crown court on the grounds that the victim's refusal to accept a blood transfusion broke the chain of causation. The court dismissed the appeal. Those who inflict violence must take their victims as they find them. The victim's refusal to accept treatment does not break the chain, even if it is an unreasonable belief.

8. DPP v Majewski **April 14, 1976**

In this leading judgment, the House of Lords decided that a person who commits a crime but doesn't know what he's doing because he is so inebriated can still be convicted if it is not necessary to prove intention for that particular crime. During the course of a disturbance at a pub in Basildon, Essex, Robert Majewski attacked the landlord and two other people, injuring all three of them. When the police arrived, he assaulted an officer, and later, at the police station where he had been taken, he struck two other officers. He was charged with various assaults. At his trial he testified that during the 48 hours preceding the disturbance he had taken a considerable quantity of drugs and that, at the time when the assaults were committed, he was acting under a combination of amphetamines, barbiturates and alcohol.

He didn't know what he was doing and had no recollection of the incidents in question. He was convicted and his appeal was dismissed. The Lords held that unless the offence was one that required proof of a specific intent, it was no defence to that the accused didn't intend to commit the act alleged. His recklessness was enough to convict him.

9. R v Bundy

March 12, 1977

Clever arguments for defendants in criminal cases are sometimes confounded by simple and even cleverer ones for the prosecution. This famous case provides a good example of such a thrust, parry and counter thrust. When Dennis Bundy was stopped by police in his car, he had with him some piping, a hammer, a pipe threader and three pieces of stocking. He had been driving around following a woman who was collecting the takings from vending machines in London pubs with the apparent intention of robbing her. He was convicted of "going equipped" for theft when "not at his place of abode". Bundy appealed on the grounds that, since he lived rough in his car, it was his abode. But in dismissing the appeal, the court held that his car was his place of abode only when after finding a site he had parked for the night, not when he was in transit.

10. R v Doukas

December 3, 1977

A major judgment on the charge of going equipped to cheat. Joseph Doukas, a hotel wine waiter, had six bottles of his own wine in his coat pockets when going to work. He intended, when a customer ordered wine, to serve one of these bottles which he'd got very cheaply, to make out a separate bill and keep the money that the hotel customer paid him. The scam was that while the waiter would pocket the customer's money, the hotel wouldn't notice any loss of income because none of its own bottles of wine were being taken to the tables by the waiter. And the waiter would be making a profit because there was a big difference between the cheap price of the wine he smuggled in to the hotel and the expensive prices on the wine menu. An important question for the appeal court was whether a charge of going equipped to cheat was sustainable because a customer would not have been deceived if he paid for wine and got wine. Doukas's appeal was dismissed. It was held that customers were deceived because it was reasonable to assume that they'd never have handed over cash if they'd have known that the wine wasn't the hotel's but rather that of the waiter's personal stock being used in a swindle.

11. DPP v Camplin**April 11, 1978**

This was a leading and groundbreaking decision about the law of provocation. Before this case, defendants on charges of murder could plead provocation only by showing they had the power of self-restraint of an adult, even if they were younger. Paul Camplin, a 15 year-old, hit a 50 year-old man over the head with a chapatti pan and killed him. His defence was provocation. He claimed that the deceased had forcibly had anal intercourse with him and then laughed at him, whereupon Camplin had lost his self-control. The judge at Leeds crown court directed the jury to consider whether the deceased's actions were enough to make a "reasonable man" do what Camplin did. If they were, the killing could be reduced from murder to manslaughter. The judge told the jury to consider not how a reasonable 15-year-old may have responded, but how an adult man would have responded. That was unfair because an adult man might be expected to show more restraint before using lethal force. The jury convicted Camplin of murder. However, on appeal the House of Lords held that the judge ought not to have instructed the jury to disregard his age.

12. Jaggard v Dickinson**July 26, 1980**

People rolling up drunk at the wrong address and breaking a window or lock in order to enter what they think is their property is not an unknown problem in Britain. This case decides an important point of law regarding that scenario. Beverly Jaggard had a good relationship with Ron Heyfron and had his consent to treat his property as if it were her own. One evening after being out drinking she took a taxi to his house in South Ockendon, Essex, but the taxi dropped her outside another, similar looking house on the same street. Not realising in her drunken state, she broke windows to get in. Jaggard was prosecuted for criminal damage. But the court ruled that under section 5(3) of the Criminal Damage Act it was required to consider the accused's actual belief when she committed the act. As she believed, even in her intoxicated state, that the accused would have consented to the damage, she was found not guilty.

13. R v Malcherek, R v Steel**March 18, 1981**

This landmark decision on life and death concerned two cases considered together by the Court of Appeal. In both cases, the accused had inflicted seri-

ous injury on his victim for which hospital treatment was necessary. In each, the treatment involved the use of a life support machine. In each, the doctors, having satisfied themselves that the patient was, for practical purposes, dead and were only being kept alive mechanically, disconnected the life support machines. The defendants, convicted of murder, claimed that the hospital had caused the death by turning off the machines. But their appeals were dismissed. It was held that the medical treatment did not break the chain of causation.

14. Laskey, Jaggard and Brown v United Kingdom

February 20, 1997

This is a famous modern case in which the personal freedom of individuals with unusual tastes was set against society's right to rule certain conduct as criminal. It addresses a debate at the core of law: when can something be condemned as illegal where the conduct is private and involves only consenting adults? It went all the way to the European Court of Human Rights. The applicants were a group of gay men who participated in sadomasochistic activities including beating and branding. Their activities involved causing injury to the genitals and other places using fish hooks, spiked gloves and wires heated with blow torches. All were of full age and consenting. No permanent injuries were caused. Nevertheless, they were prosecuted for causing bodily harm and wounding under the Offences Against the Person Act 1861. At their trial, the defence of mutual consent was rejected and they consequently pleaded guilty. On appeal, their convictions were upheld but the sentences were reduced to between three months and three years. A further appeal to the House of Lords was dismissed. They then appealed to the European Court of Human Rights claiming that their convictions were a violation of their human rights to a private life. The court said the issue was whether the interference with their rights was "necessary in a democratic society". It ultimately ruled that the interference had been necessary and that the state was entitled to regulate the infliction of physical harm through the criminal law. It was up to the authorities to determine the "tolerable level of harm".

15. Attorney-General's Ref No. 3 of 1994 (1997)

July 25, 1997

This case decided the law in a situation where a man stabs a pregnant woman and inflicts a wound that eventually kills the baby she is carrying. It

rules on the important issue of which forms of life are protected by the criminal law. On May 26, 1990, a man stabbed his girlfriend in the face, abdomen and back. At the time she was, to his knowledge, 22 to 24 weeks pregnant with his child. Seventeen days later the child was born — it survived for 120 days before dying from the effects of premature birth. The mother recovered and the assailant was convicted of wounding with intent to cause grievous bodily harm and sentenced to four years imprisonment. Although the man was charged with murder after the death of the child, the judge ruled that neither murder nor manslaughter was proved on the available evidence and directed the jury to acquit on the murder charge. The Attorney-General referred the matter to the Court of Appeal on points of law including whether the crimes of murder or manslaughter can be committed where unlawful injury is deliberately inflicted to a child in utero (in the womb). The House of Lords decided that it was enough to raise a *prima facie* case of murder if the defendant committed the act that caused the death of the victim (the foetus) or caused grievous bodily harm. So an assailant such as the one who escaped a homicide conviction in this case could now be convicted.

16. Gregory v Portsmouth City Council
February 2, 2000

The civil action for malicious prosecution is a useful defence for a citizen against oppressive behaviour by a prosecutor. It is available where a prosecution has been brought maliciously, without reasonable and probable cause and has been unsuccessful. It helps balance the relationship between the individual and the state. This case made an important decision about the limits of that civil action. Terence Gregory, a councillor, had allegedly misused his position for financial gain and had been subject to disciplinary proceedings by a city council. Those proceedings, however, were quashed by the Divisional Court following a judicial review. The councillor then sued the council for having ‘maliciously prosecuted’ him by taking disciplinary proceedings against him. But the House of Lords decided that an action for malicious prosecution will not be open to someone who has been merely the subject of disciplinary proceedings.

17. Chief Adjudication Officer v Faulds
May 16, 2000

This case concerned the important issue of when incidents can be properly described as accidents. It is a fine illustration of how what might seem like remote philosophical semantics are an important and unavoidable part

of law and have a striking impact on real life. Thomas Faulds, a senior fire officer, was claiming industrial injury benefit as a consequence of post-traumatic stress disorder. Faulds, who had served for 27 years, argued that he was entitled to benefit within the provisions of section 94(1) of the Social Security Contributions and Benefits Act 1992, as he had suffered personal injury (stress) by accident arising out of and in the course of his employment. He had attended many appalling fatal accidents and had been required to photograph mutilated bodies. But the law lords rejected Faulds' claim that he had suffered from an "accident" in the way meant by the legislation. He wasn't present when accidents actually occurred and it was not, at least directly, the actual happening of a crash or a fire or a vehicle collision that caused him any injury. The mere fact of suffering stress or developing some illness or disorder from being engaged in a stressful occupation wouldn't bring the sufferer within the purview of the Act for the purposes of injury benefit.

18. Regina (Quintavalle) v British Broadcasting Corporation
May 16, 2003

This landmark House of Lords decision dealt with the issue of when broadcasters can decline to show something they regard as unfit for the public. ProLife, a political party, was campaigning against abortion. It had fielded enough candidates in a general election to entitle it to one party election broadcast in Wales and submitted a tape of its proposed broadcast to various channels. The major part of the programme had been devoted to explaining the processes involved in different forms of abortion, with prolonged and graphic images. The pictures were judged to be very disturbing. The BBC did not broadcast the film. The party took legal action in an effort to have that decision declared improper. But the House of Lords decided that the BBC and other terrestrial broadcasters had been entitled to refuse to show it on the ground that it would be offensive to public feeling. Lord Nicholls said that television broadcasters had to ensure, so far as they could, that their programmes contained nothing likely to be offensive to viewers. That was a statutory obligation placed on the independent broadcasters by the Broadcasting Act 1990 and on the BBC by an agreement with the Secretary of State for National Heritage. It wasn't for the courts to find that the broadcasters had acted unlawfully when they had done no more than give effect to the statutory and other obligations binding on them.

19. Regina (Williamson and Others) v Secretary of State for Education and Employment**February 25, 2005**

This case hinged on the contentious issue of whether the law against corporal punishment in schools broke the alleged human right of some parents to delegate to teachers the power to hit children. The claimants were religious educationalists. They applied for judicial review against the Secretary of State for Education and Employment, asking for a declaration that the Education Act 1996 did not prevent a parent delegating to a teacher in an independent school the right to administer physical punishment. They wanted it stated that a teacher who gave physical punishment on the basis of an expressed delegation by a parent in writing did not act unlawfully or unprofessionally. The House of Lords disagreed with that interpretation. The law lords ruled that the statutory ban on corporal punishment was not incompatible with the human right to freedom of religion and the freedom of some people to manifest their religion in practice by caning children. Although the statutory ban on corporal punishment was capable of interfering with the rights of those who sincerely believed that they had a religious duty to discipline children by the use of mild corporal punishment, Parliament was entitled to take the view that the ban was necessary in a democratic society to protect children from the infliction of physical punishment in an institutional setting.

20. Regina (Laporte) v Chief Constable of Gloucestershire Constabulary
December 14, 2006

The circumstances in which the police are permitted to stop citizens and turn them away from where they want to go is an issue of crucial consequence in any society. Too little power and there might be disorder; too much power and you would have an oppressive police state. This case had to address that issue in the context of that key characteristic of democracy — the right to protest. Relying on their duty to prevent a breach of the peace, police intercepted coach passengers travelling from London to a protest demonstration in Gloucestershire and prevented them from continuing to the demonstration. Police had turned back three coaches of anti-war protesters, including Jane Laporte, from a journey to a protest against impending bombing raids on Iraq. The Lords decided that police acted unlawfully. Stopping them proceeding was unlawful because no such breach of the peace was about to occur. The Lords ruled, citing European jurisprudence, that freedom of expression and assembly are “an essential foundation of democratic society”, and that there was insufficient reason here for those rights to be curtailed.

GLOSSARY

1. abdomen (n)
2. abode (n)
3. above the prescribed limit
4. adjudication (n)
5. administer (punishment) (v)
6. aggrieved (adj)
7. amphetamine (n)
8. appalling (adj)
9. applicable (adj)
10. assailant (n)
11. assembly (n)
12. authority (n)
13. ban on sth (n)
14. bank account (n)
15. barbiturate (n)
16. benefit (n)
17. bombing raid (n)
18. broadcaster (n)
19. campaign against sth
20. cane (v)
21. cease (v)
22. cheat (v)
23. cheque book (n)
24. cheque guarantee card (n)
25. concede (v)
26. condemn (v)
27. confound (v)
28. constitute the offence (v)
29. contentious (adj)
30. contrary to sth (adj)
31. cops and crooks caper (n)
32. corporal punishment (n)
33. countless (adj)
34. crack up (v)
35. deceased (adj)
36. deceive (v)
37. deception (n)
38. delegate (n)

39. directive (n)
40. disciplinary proceedings (n)
41. discipline sb (v)
42. disregard (v)
43. distress and inconvenience (n)
44. Divisional Court (n)
45. educationalists (n)
46. enforceable (adj)
47. entry (n)
48. excess (n)
49. field (v)
50. foetus (n)
51. forcibly (adv)
52. fraud (n)
53. frustration (n)
54. gain (n)
55. grievous (adj)
56. groundbreaking (adj)
57. hammer (n)
58. handle (v)
59. hinge on (v)
60. holiday maker (n)
61. homicide (n)
62. immaterial (adj)
63. impend sth on sb (v)
64. impliedly (adv)
65. in consequence of
66. in question
67. in custody
68. in transit
69. incompatible (adj)
70. increased overdraft (n)
71. inebriated (adj)
72. inflict (injury on sb) (v)
73. innocuous (adj)
74. intercept (v)
75. interference (n)
76. issue (v)
77. judicial review (n)
78. jurisprudence (n)

79. lace (a drink) (v)
80. law of provocation (n)
81. leg out (v)
82. lethal (adj)
83. life support machine (n)
84. make off (v)
85. mental distress (n)
86. mild (adj)
87. misuse (v)
88. mutilated (adj)
89. mutual consent (n)
90. nevertheless (conj)
91. obtain (v)
92. on purpose
93. ostensibly (adv)
94. otherwise (adv)
95. overdrawn (adj)
96. overturn (v)
97. parry and counter thrust (n)
98. pecuniary advantage (n)
99. pipe threader (n)
100. piping (n)
101. plead guilty (v)
102. plot (n)
103. post-traumatic (adj)
104. prank (n)
105. pregnant (adj)
106. preliminary reference (n)
107. premature birth (n)
108. prima facie case
109. purview (n)
110. raise a case
111. receiver (n)
112. recklessness (n)
113. Regina (n)
114. reject (v)
115. roll up (v)
116. scam (n)
117. secondary party (n)
118. self-restraint (n)

- 119. smuggle (v)
- 120. stocking (n)
- 121. stress disorder (n)
- 122. strike (v)
- 123. submit (v)
- 124. surreptitiously (adv)
- 125. sustainable (adj)
- 126. swindle (n)
- 127. takings (n)
- 128. thrust (n)
- 129. tolerable (adj)
- 130. tour operator (n)
- 131. ultimately (adv)
- 132. van (n)
- 133. vending machines (n)
- 134. within the provisions
- 135. womb (n)
- 136. write a cheque (v)
- 137. wrongdoer (n)

TASKS

1. Which case(s) dealt with:

- a) alcohol
- b) banks
- c) causing premature birth and death of a baby
- d) eating out
- e) education
- f) euthanasia
- g) medical treatment
- h) rape
- i) religion
- j) right to protest
- k) sex
- l) unfair indictment
- m) working conditions?

2. Divide the cases into civil and criminal.

3. Which cases (if any) dealt with:

- a) tort law
- b) criminal law
- c) family law
- d) contract law
- e) land law
- f) administrative law?

4. Decide if the following statements about the British law are true (T) or false (F). Give your reasons using the text as example cases. Correct the false statements.

a) If a person lives in a vehicle, it is considered their abode only when it is parked.

b) It would not be an offence for a waiter to sell a customer his own bottle of wine and not include it on the bill, if it were identical to that in stock.

c) A teacher is entitled to exercise corporal punishment on pupils if allowed by their parents.

d) Being drunk and drugged in time of an assault is no proper defence.

e) If a person has to witness unpleasant things as the nature of his job requires it, he can not sue for mental distress.

f) If a person secretly adds alcohol to somebody's drink being aware they are going to drive soon, they are involved into the crime of drink-driving.

g) In case someone injures a person so hard they need blood transfusion, but they reject it on religious grounds and die, the defendant is not guilty of murder.

h) If a person, being inebriated, takes sb else's house for their own and tries to enter it, they are guilty of trespassing.

i) If somebody hits a pregnant woman and her child dies as a result, a person is guilty of murder / manslaughter.

j) If someone inflicts grievous bodily harm on a person and died in hospital as a result of the support machines being turned off, they are not guilty of murder.

k) If you cannot possibly commit a crime in the circumstances, the attempt to do it is nevertheless a crime.

l) If you obtain a package tour for yourself and somebody else, they are not entitled to any damage award if a loss occurs, because they did not enter the contract directly.

m) It is not illegal to express your protest against the government policy unless you cause breach of the peace or mutiny.

n) As the UK entered the EU it is to practise all its laws without any passing of additional laws.

o) The age of a person in case of a provoked homicide must be taken into account.

p) Your ordering a meal does not necessarily mean entering into a contact with the restaurant.

5. Match the antonyms.

- | | |
|------------------------|--------------|
| 1. Appalling | a) alive |
| 2. Ban | b) allow |
| 3. Cease | c) harmful |
| 4. Deceased | d) open |
| 5. Forcible | e) pleasant |
| 6. Inebriated | f) severe |
| 7. Innocuous | g) sober |
| 8. Law-abiding citizen | h) start |
| 9. Mild | i) voluntary |
| 10. Surreptitious | j) wrongdoer |

6. Match the synonyms.

- | | |
|---------------|-------------|
| 1. Assembly | a) deadly |
| 2. Cane | b) depend |
| 3. Cheat | c) hit |
| 4. Excess | d) meeting |
| 5. Gain | e) monetary |
| 6. Grievous | f) murder |
| 7. Hinge | g) overuse |
| 8. Homicide | h) profit |
| 9. Lethal | i) serious |
| 10. Pecuniary | j) swindle |

7. Fill in the gaps with the most suitable changing the form where necessary.

thrust, honour, incompatible, leg, mutual, filed, concede, reckless, handle, corporal, gain, abode, appalling, smuggle, overturn, constitute, adjudicate

- It's amazing what some people will do for
- They were arrested for stolen goods.
- We saw the police coming and it down the road.

- d) It must that different judges have different approaches to these cases.
- e) The increase in racial tension a threat to our society.
- f) His sentence by the appeal court.
- g) The bank had to her cheque though it was overdrawn.
- h) The case was referred to a higher court for
- i) The coroner stated that the cause of death was driving.
- j) Homeless people of no fixed is a problem the local authorities have to deal with.
- k) Customs officials foiled an attempt to the paintings out of the country.
- l) The of his argument was that change was needed.
- m) There was an atmosphere of trust between them.
- n) The country is notorious for its prison conditions.
- o) punishment was banned by statute in 1987.
- p) These two objectives are mutually
- q) Each of the main parties more than 300 candidates.

8. Match the words to their definitions. The figure in brackets indicates the number of the passage in which the word occurs.

- | | |
|-----------------------|---|
| 1. Abdomen (15) | a) a criminal; a dishonest person |
| 2. Abode (9) | b) a trick that is played on sb as a joke |
| 3. Administer (19) | c) to buy or sell |
| 4. Concede (2) | d) done secretly or quickly, in the hope that other people will not notice |
| 5. Contentious (19) | e) happening before a more important action or event |
| 6. Crook (2) | f) involving the use of natural products and energy in a way that does not harm the environment |
| 7. Handle (2) | g) irrelevant |
| 8. Field | h) likely to cause disagreement between people |
| 9. Immaterial (3) | i) not harmful or dangerous |
| 10. Innocuous (6) | j) showing a lack of care about danger and the possible results of your actions |
| 11. Prank (6) | k) the organ in women and female animals in which babies develop before they are born |
| 12. Preliminary (5) | |
| 13. Reckless (8) | |
| 14. Surreptitious (6) | |
| 15. Sustainable (10) | |
| 16. Womb (15) | |

- l) the part of the body below the chest that contains the stomach, bowels, etc.
- m) the place where sb lives
- n) to admit that sth is true, logical, etc
- o) to give or to provide sth, especially in a formal way
- p) to provide a candidate, speaker, team, etc. to represent you in an election, a competition, etc.

9. Write the words defined below. The figure in brackets indicates the number of the passage in which the word occurs.

- a) a clever and dishonest plan for making money (10)
- b) a drug that makes you feel excited and full of energy (8)
- c) a person who does sth dishonest or illegal (7)
- d) a piece of equipment that keeps sb alive when they are extremely ill / sick and cannot breathe without help (13)
- e) a powerful drug that makes you feel calm and relaxed or puts you to sleep (8)
- f) a situation in which sb uses dishonest or illegal methods in order to get money from a company, another person, etc. (10)
- g) a word meaning 'queen', used, for example, in the titles of legal cases which are brought by the state when there is a queen in Britain (19)
- h) a young human or animal before it is born (15)
- i) an official instruction (5)
- j) causing or able to cause death (6)
- k) connected with the punishment of people who break rules (16)
- l) relating to or connected with money (3)
- m) suffering unfair or illegal treatment and making a complaint (4)
- n) the ability to stop yourself doing or saying sth that you want to because you know it is better not to (11)
- o) the amount of money that a shop / store, theatre, etc. receives from selling goods or tickets over a particular period of time: (9)
- p) the amount of money that you owe to a bank when you have spent more money than is in your bank account (3)
- q) the crime of causing sb serious physical injury (15)
- r) the crime of cheating sb in order to get money or goods illegally (1)
- s) the legal right or duty to take care of or keep sb/sth; the act of taking care of sth/sb (2)

- t) the main point of an argument, a policy, etc. (9)
- u) the most senior legal officer in some countries or states, for example the UK or Canada, who advises the government or head of state on legal matters (15)
- v) the physical punishment of people, especially by hitting them (19)
- w) to add a small amount of alcohol, a drug, poison, etc. to a drink (6)
- x) to express very strong disapproval of sb/sth, usually for moral reasons (14)
- y) to make sb believe sth that is not true (1)
- z) to officially decide that a legal decision etc. is not correct, and to make it no longer valid (2)
- aa) to take, send or bring goods or people secretly and illegally into or out of a country, etc (10)
- bb) within the limits of what a person, an organization, etc. is responsible for; dealt with by a document, law, etc. (17)

10. Insert the correct prepositions where necessary.

- a) Bill finally rolled two hours late in a taxi, drunk and dirty.
- b) He did it purpose, knowing it would annoy her.
- c) He made hurriedly to avoid paying.
- d) Heavy casualties were inflicted the enemy.
- e) His success hinges how well he does at the interview.
- f) On the day question we were in Cardiff.
- g) The board completely disregarded my recommendations.
- h) The castle is now in the custody of the state.
- i) The child was born deformed consequence of an injury to its mother.
- j) The goods were damaged transit and the owner sued the ferryman.
- k) The government has decided that the publication of the report would be “contrary the public interest.”
- l) The teacher has the authority to administer punishment.
- m) There is to be a total ban smoking in the office.
- n) You’ll crack if you carry on working like this.
- o) She deceived him handing over all his savings.

11. Fill in the gaps with the most suitable words in the correct form.

tolerate, direct, judiciary, contentious, draw, deceive, grief, sustain, count, interference, force, material, frustration, cease

- a) I've warned her times, but she will not listen to me.
- b) He was accused of obtaining property by
- c) It is to me whether he stays or goes. I do not care.
- d) Your account is £200 so you can't write a cheque.
- e) What him is that there's too little money to spend on the project.
- f) A gambling debt is not legally
- g) It's the governmental policy to reach an environmentally society.
- h) The European Union has issued a new set of on pollution.
- i) Though he was adopted, he could not forget his parents.
- j) Supporters were removed from the court by the police.
- k) At times, the heat was barely and everybody was sweating.
- l) The police are very unwilling to in family problems.
- m) As a result of being caned the boy suffered bodily harm.
- n) The case is subject to review.
- o) It was one long of fraud against robbery?

12. Translate into English.

- a) Этот случай не подпадает под сферу действия данного постановления.
- b) Апелляционный суд отменил судебное решение низшего суда, так как оно ущемляло свободу слова.
- c) Нарушение соглашения было не умышленным и произошло по не зависящим от сторон причинам.
- d) Вопрос о допустимости телесных наказаний в семье и школе в разных странах до сих пор решается по-разному.
- e) Объективная ответственность в юриспруденции — это ответственность независимо от наличия вины.

f) Действия врачей не нарушили причинную связь между нанесением телесных повреждений и смерти.

g) При вынесении вердикта присяжные не должны принимать во внимание цвет кожи подсудимого.

h) Допустимый уровень шума в этом районе превышен, и жить в нем небезопасно.

i) Сразу по задержании подозреваемый признал себя виновным.

j) Случаи смс-мошенничества становятся все более распространенными в наше время.

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