

В Государственный университет —
Высшая школа экономики

АНГЛИЙСКИЙ ЯЗЫК ДЛЯ ЮРИСТОВ

УЧЕБНИК

Под общей редакцией **И. И. Чироновой**

*Допущено Министерством образования и науки
Российской Федерации в качестве учебника
для студентов высших учебных заведений*

Москва ■ Юрайт ■ 2011

УДК 811.111
ББК 81.2я73
Ч65

Авторский коллектив:

Чиронова Ирина Игоревна — кандидат филологических наук, профессор, заведующая кафедрой английского языка факультета права ГУ — ВШЭ, ответственный редактор учебника «Английский язык для юристов»;

Буримская Диана Валентиновна — кандидат педагогических наук, доцент кафедры английского языка факультета права ГУ — ВШЭ;

Плешакова Татьяна Владимировна — доцент, заместитель заведующего кафедрой английского языка факультета права ГУ — ВШЭ;

Попкова Екатерина Михайловна — кандидат филологических наук, доцент кафедры английского языка факультета права ГУ — ВШЭ;

Соловьева Инна Владимировна — кандидат филологических наук, доцент кафедры английского языка факультета права ГУ — ВШЭ.

Рецензенты:

Виноградов В. А. — доктор юридических наук, профессор, заведующий кафедрой конституционного и муниципального права Российской правовой академии;

Тарасов Е. Ф. — доктор филологических наук, профессор, заведующий сектором психолингвистики Института языкознания РАН.

Чиронова, И. И.

Ч65

Английский язык для юристов : учебник / под общ. ред. И. И. Чироновой. — М. : Издательство Юрайт, 2011. — 399 с. — Серия : Учебники ГУ — ВШЭ.

ISBN 978-5-9916-1193-0

Учебник построен по тематическому принципу и охватывает основные отрасли права, что позволяет изучить большой массив разнообразной юридической терминологии. Языковой материал представлен в коммуникативной форме, уделяется внимание развитию навыков чтения, говорения и письма. Учебник может быть использован в комплексе с зарубежными учебными пособиями для подготовки к международному экзамену по английскому языку в области юриспруденции (International Legal English Certificate).

Для студентов и аспирантов юридических вузов и факультетов, юристов-практиков, а также всех желающих познакомиться с особенностями функционирования и употребления юридической лексики в английском языке.

УДК 811.111
ББК 81.2я73

ISBN 978-5-9916-1193-0

© Коллектив авторов, 2011
© ООО «Издательство Юрайт», 2011

Content

Unit 1. WHAT IS LAW?	
Part I. Introduction to Law	5
Part II. Sources of Modern Law	17
Part III. Civil Law and Public Law	29
Follow-up Exercises	40
Just for Fun	41
Unit 2. PRACTICE OF LAW	
Part I. Civil and Criminal Law	42
Part II. Legal Profession in the United Kingdom	51
Part III. English Court System	64
Follow-up Exercises	77
Just for Fun	78
Unit 3. COMPANY LAW: PARTNERSHIPS, LIMITED PARTNERSHIPS, LIMITED LIABILITY COMPANIES	
Part I. Introduction to Business Organization	80
Part II. What Is a Partnership?	92
Part III. Termination of Partnerships	102
Part IV. Limited Partnerships and Limited Liability Companies	111
Follow-up Exercises	120
Just for Fun	122
Unit 4. COMPANY LAW: CORPORATIONS (STOCK COMPANIES)	
Part I. Nature and Formation of Corporations in the USA	124
Part II. Shares and Membership of a Company	140
Part III. Company Meetings in the UK	152
Follow-up Exercises	160
Just for Fun	161
Unit 5. CIVIL PROCEDURE	
Part I. Civil Procedure Law	164
Part II. The Judiciary	176
Part III. Judicial Procedure	190
Follow-up Exercises	200
Just for Fun	201

Unit 6. INTELLECTUAL PROPERTY: COPYRIGHT AND INDUSTRIAL PROPERTY	
Part I. Introduction to Intellectual Property (IP)	204
Part II. Copyright and Fair Use	216
Part III. Industrial Property	231
Follow-up Exercises	247
Just for Fun	249
Unit 7. EMPLOYMENT LAW	
Part I. Introduction to Employment Law	251
Part II. Contract of Employment	262
Part III. Types of Dismissal	272
Follow-up Exercises	281
Just for Fun	287
Unit 8. CONTRACT LAW	
Part I. Nature of Contracts. Importance of Contract Law	289
Part II. Classification of Contracts	298
Part III. Offer and Acceptance	308
Part IV. Performance, Breach and Discharge of Contracts	318
Follow-up Exercises	324
Just for Fun	326
Unit 9. TORT LAW	
Part I. The Nature of Torts	328
Part II. Intentional Torts	339
Part III. Negligence	351
Follow-up Exercises	365
Just for Fun	366
Unit 10. PROPERTY LAW	
Part I. The Legal Meaning of Property	367
Part II. Concept of Ownership	383
Follow-up Exercises	394
Just for Fun	397

Unit 1

WHAT IS LAW?

Lead-in

1. The word *law* has many meanings, and this word is used variously in different fields. For example, physical science has its law of gravity, and economics has the law of supply and demand. Do these laws have precise definitions? Is the same precision possible in jurisprudence – the scientific study of law?
2. Over the years, legal scholars have offered dozens of definitions of law, but none of them is universally accepted as absolutely definitive. How can this difficulty in defining law be explained?

Part I

Introduction to Law

Read the text and tick the issues it addresses.

1. The separation of powers
2. Social morality, rules and laws
3. Common sense and law
4. Public and civil laws
5. The concept of justice
6. Descriptive and prescriptive laws
7. System of courts and police

The English word *law* refers to limits upon various forms of behaviour. Some laws are descriptive: they simply describe how people, or even **natural phenomena**, usually behave. An example is rather **consistent** law of gravity; another is the less consistent law of economics. Other laws are prescriptive – they prescribe how people ought to behave. For example, the speed limits **imposed upon** drivers are laws that prescribe how fast we should drive. They rarely describe how fast we actually do drive, of course.

In all societies, relations between people are regulated by prescriptive laws. Some of them are customs — that is, informal rules of social and moral behaviour. Some are rules we accept if we belong to particular social institutions, such as religious, educational and cultural groups. And some are precise laws made by nations and **enforced against** all citizens within their power.

What motives do governments have in making and enforcing laws? Social control is undoubtedly one purpose. **Public laws** establish the authority of the government itself, and **civil laws** provide a **framework** for interaction among citizens. Without laws, it is argued, there would be anarchy in society (although anarchists themselves argue that human beings would be able to interact peacefully without laws if there were no governments to interfere in our lives).

Another purpose is the **implementation of justice**. Justice is a concept that most people feel is very important but few are able to define. Sometimes a just decision is simply a decision that most people feel is fair. But can we create a just society by simply observing **public opinion**? If we are always fair to majorities, we will often be unfair to minorities. If we do what seems to be fair at the moment, we may create unfairness in the future. Many philosophers have proposed concepts of justice that are much more theoretical than everyday notions of fairness, and sometimes governments are influenced by philosophers. But in general, governments are guided by more **practical considerations** such as rising **crime rates** or the lobbying of pressure groups.

Sometimes laws are simply an attempt to implement **common sense**. It is obvious to most people that dangerous driving should be punished; that fathers should provide financial support for their children if they desert their families; that a person should be compensated for losses when someone else **breaks an agreement with** him or her. But in order to be enforced, common sense needs to be defined in law, and when definitions are being written, it becomes clear that common sense is not such a simple matter. Instead, it is a complex skill based upon long observation of many different people in different situations. Laws based upon common sense do not necessarily look much like common sense when they have been put into words.

In practice, governments are neither institutions solely interested in **retaining power**, nor clear-thinking bodies implementing justice and common sense. They combine many purposes and **inherit** many **traditions**. The laws that they make and enforce reflect this confusion.

Active Vocabulary

natural phenomena (<i>sing. a phenomenon</i>) — явления природы	public opinion — общественное мнение
consistent — последовательный, непоколебимый	practical considerations — практические соображения
to impose upon — налагать на	crime rate — уровень преступности
to enforce against — применять к, осуществлять	common sense — здравый смысл
public law — публичное право	to break an agreement with — нарушить соглашение с
civil law — гражданское право	to retain power — удерживать власть
framework — основа, рамки	to inherit traditions — перенимать, наследовать традиции
implementation of justice — осуществление правосудия	

Vocabulary Focus

1. Match the synonyms.

1) consistent		a) structure
2) impose		b) accomplishment
3) framework		c) conduct
4) implementation		d) firm
5) behaviour		e) cooperation
6) interaction		f) enforce
7) agreement		g) covenant

2. Complete the table with the words from the text using their related forms.

Verb	Noun	Adjective
		various
describe		
	regulation	
institute		
		motive
	interaction	
		argumentative

3. Choose the correct item to fill in the gaps.

- Amended road laws impose new speed limits ... drivers.
 - upon
 - in
 -
 - at
- They belong ... the same chess club.
 - for
 - to
 - at
 - in

3. Laws are enforced ... all citizens.
a) on b) among c) at d) against
4. Civil laws provide a framework ... interaction among citizens.
a) for b) — c) in d) at
5. They may interfere ... elections by the use of corrupt means.
a) on b) along c) in d) at
6. A person should be compensated ... losses when someone else breaks an agreement with him or her.
a) by b) for c) at d) of
7. Descriptive laws are based ... description or classification rather than explanation or prescription.
a) in b) at c) of d) upon

4. Give English equivalents for the following word combinations using your active vocabulary.

Явления природы; публичное право; осуществлять правосудие; непоколебимый закон тяготения; общественное мнение; предписанные водителям ограничения скорости; основываться на практических соображениях; обязательные для всех граждан законы; понизить уровень преступности; опираться на здравый смысл; нарушить соглашение с партнером; удерживать власть; перенимать традиции; обеспечивать правовую основу для взаимодействия граждан; гражданское право.

5. Complete each sentence using a word or a phrase from the text (the first letter of the word is given).

1. Principle is a rule or law concerning a n... p... or the behaviour of a system.
2. P... laws give directions, rules, or injunctions, while d... laws are based upon description or classification rather than explanation or prescription.
3. Prescriptive laws comprise c... — usual or habitual practices, typical mode of behaviour.
4. Laws of a country are enforced against all its c... .
5. P... l... is the branch of law that deals with relations between a state and its individual members.

6. Laws provide a f... for interaction among citizens.
 7. J... is the principle of fairness that like cases should be treated alike.
 8. One of the factors in determining the actions of government is p... a... .
 9. The Democrats have a slim m... in the House, so they have more chances to influence adoption of the statute.
- 6. Read the text and choose the word or word combination from the box to fill in the gaps. Mind one extra word/word combination you do not need to use.**

second, at the most informal level, however, first, at a more formal level, finally
--

Government-made laws are often patterned upon informal rules of conduct already existing in the society, and relations between people are regulated by a combination of these rules. This relationship can be demonstrated using the example of a sports club.

Suppose a member of a rugby club is so angry with the referee during a club game that he hits him and breaks his nose. (1) ..., it is probable that people seeing or hearing about the incident would criticize the player and try to persuade him to apologize and perhaps compensate the referee in some way. (2) ... the player would find he had broken the rules of the club, and perhaps of a wider institution governing the conduct of all people playing rugby, and would face punishment, such as a fine or a suspension before he would be allowed to play another game. (3) ... the player might also face prosecution for attacking the referee under laws created by the government of his country. In many countries there might be two kinds of prosecution. (4) ..., the referee could conduct a civil action against the player, demanding compensation for his injury and getting his claim enforced by a court of law if the player failed to agree privately. (5) ..., the police might also start an action against the player for a crime of violence. If found guilty, the player might be sent to prison, or he might be made to pay a fine to the court — that is, punishment for an offence against the state, since governments often consider anti-social behaviour not simply as a matter between two individuals but as a danger to the well-being and order of society as a whole.

7. Answer the following questions.

1. How are descriptive laws distinguished from prescriptive ones? Can you give examples of both types?
2. What kind of laws regulate interaction between people?
3. Why do governments make and enforce laws?
4. How can one tell public laws from civil laws?
5. Which issues influence governments in the implementation of justice?
6. Why do some laws appear to contradict common sense?
7. What examples of common sense issues put into action by laws are given in the text? Can you add more?
8. How is the nature of governments described in the text?

Grammar Focus

VERBS FOLLOWED BY AN INFINITIVE

Some frequently used verbs are followed by the infinitive rather than the gerund. Which ones do you know? Study the information in the box below to check your answers.

Study the following phrase from the text: ... *common sense needs to be defined in law*. The verb *need* here is an example of a verb followed by an infinitive. The same structure is also found after the following verbs: *afford, appear, arrange, bother, choose, claim, decide, demand, expect, fail, hope, manage, mean, need, offer, plan, pretend, refuse, seem, tend, venture, want*.

The simple infinitive often expresses an idea that, in relation to the verb phrase, is in the future. However, its perfect forms always denote an action prior to that of the finite verb. The main infinitive forms are shown in the table below:

Aspect	Voice	
	Active	Passive
<i>Non-perfect</i>	<i>Simple:</i> to break <i>Continuous:</i> to be breaking	to be broken
<i>Perfect</i>	<i>Simple:</i> to have broken <i>Continuous:</i> to have been breaking	to have been broken

8. Use the verbs from the table to do the following:
- You are planning to set up a partnership. Tell your partner what your ideas are.
 - Imagine that you are the CEO (chief executive officer) of a large international corporation. Write five sentences for your letter to shareholders concerning the strategy of the company.
9. Rewrite the following sentences using the verbs in brackets and the appropriate form of the infinitive.

Example: Labour Party is losing popularity. (*seem*) →
Labour Party seems to be losing popularity.

- The factory has closed down. (*appear*)
 - Crime rate will decline. (*expect*)
 - They have solved the problem. (*claim*)
 - In most cases philosophers could not influence laws. (*fail*)
 - The government has imposed new penalties upon the infringers. (*offer*)
10. Translate these sentences into English using your active vocabulary.
- Трудовая дисциплина налагает на начальников обязанность подавать пример выполнения служебного долга, четко отдавать приказания и распоряжения подчиненным.
 - Потребность в применении норм права для реализации содержащихся в них предписаний возникает, когда налицо факт правонарушения и необходимо устранить его последствия или применить санкцию.
 - Публичное право — это совокупность отраслей права, которые регулируют отношения, обеспечивающие общий, публичный интерес.
 - В правовой системе гражданское право выступает как базовая отрасль, предназначенная для регулирования частных, прежде всего имущественных отношений.
 - В формировании общественного мнения большую роль играют средства массовой информации.
 - Закон не требует обязательного заключения соглашения, однако из практических соображений рекомендуется заключать его, предпочтительно в письменной форме.

7. Уровень преступности, как правило, достаточно точно отражает благополучие социальной ситуации.
8. Под здравым смыслом иногда понимают способность принимать правильные решения и делать правильные предположения, основываясь на логическом мышлении и накопленном опыте.
9. Участник имеет право нарушить соглашение и забрать внесенную сумму только в том случае, если это не повлечет за собой материальных потерь для организаторов.

Additional Reading

TEXT 1

Read the text and choose the correct answer.

Laws are now written but were there laws in societies that have not left a written record? The interference must be that there were not customs, handed down throughout the generations, which governed human behaviour. There is plenty of evidence of ordered behaviour in the Neolithic or late Stone Age. We can take two examples from the UK. The area around Stonehenge in Wiltshire is full of evidence of sustained human activity over an extended period, starting in the Neolithic era and continuing through the Bronze Age. As far north as Skara Brae in the Orkneys stone houses were built at a time when most buildings in Britain were wooden. These could not have been built and maintained without settled rules as to how people conducted themselves. Contracts can be, and frequently are, oral. There is no magic about the written word although the absence of writing clearly gives rise to the possibility of differences of recollection and is far from ideal. Perhaps in the days before writing, important arrangements such as contracts would have been entered into with witness present. We simply do not know.

Did the written record develop because it was needed for commerce and law, or did it develop for other reasons and was then found convenient for commercial transactions? Again, we do not know for certain but if we look at the written record as it developed, it can be seen that commerce and law were at the forefront. To take a European example, the Mycenaean civilisation in and around Mycenae in southern Greece flourished in the later Bronze Age, about 1600 to 1200 BC, some hundreds of years before classical Greece. A written language associated with

the Mycenaeans and known to archaeologists as “Linear B” was deciphered in the 1950s by an architect called Michael Ventris. This record turned out to be archives and inventories with nothing of any literary merit. In other words, they were largely commercial in nature. Linear A, an even earlier script, has yet to be deciphered.

Cuneiform tablets dated to at least 2500 BC have been discovered in Mesopotamia but simpler written records of one sort or another go back to about 5000 BC. Some tablets contain inventories. Others show a record of loans, which are essentially a legal matter. It is more than possible that the wish to record commercial transactions of varying sorts more permanently was the principal force in inventing ways of creating that permanence. The evidence would seem to support the theory that writing was needed by societies primarily to regulate their activities and that literature came along later. Societies that traded with others found that dependence on the purely verbal was unreliable.

1. Scientists have facts proving ... in societies without written language.
 - a) that there were laws
 - b) the absence of laws
 - c) laws to be impossible
2. The stone houses built in the Neolithic era and the Bronze Age ... settled rules.
 - a) could have been built without
 - b) were definitely built in accordance with
 - c) cannot be the proof of
3. Contracts that are not written are ...
 - a) illegal.
 - b) invalid.
 - c) common.
4. If there is no written document people involved ...
 - a) may be confused.
 - b) will be able to recall the details.
 - c) will need a witness.
5. The history of written language demonstrates that commerce and law ...
 - a) have always been in conflict with each other.

- b) have been in permanent interaction.
 - c) could be seen as reasons for the written record development.
6. A written language “Linear A” ...
- a) was used for documentation.
 - b) is of great value as a literary monument.
 - c) has not been decoded yet.
7. Some tablets found in Mesopotamia ...
- a) are dated to the later Bronze Age.
 - b) prove that written language was mainly used for legal matters.
 - c) were used as the only means of conducting business.
8. The general idea of the text is that ...
- a) literature preceded business records.
 - b) the Ancients used writing to make their transactions more profitable.
 - c) legal matters were the driving force behind writing development.

TEXT 2

The paragraphs of the text below are jumbled up. Put them in the correct order.

A. To understand legal reasoning, it should be recognized that legal reasoning is done case by case and employs a rudimentary three-step process.

Step 1. The current case is compared with at least one previous similar case.

Step 2. The previous case or cases are analysed for the rules found in them, and those rules are restated and perhaps adapted a bit to meet new conditions.

Step 3. The rules, as previously stated in earlier cases as revised, are then applied to the current case.

B. This leaves the final basic element of legal reasoning – *statutory interpretation*. Before judges decide how to apply a statute, they must first decide what a statute means. Like case reasoning, statutory interpretation is simple to describe but can become complex in a real case. At its core, statutory interpretation addresses the question: What does this law mean?

C. However, case reasoning is not all that is involved in legal reasoning. What happens when a judge has to decide a case

involving a topic the courts have never ruled on before, or must apply a statute that courts have never applied before? This kind of case is called *a case of first impression*. Judges are not permitted simply to make up new law on a whim. They have to develop a rational basis for their decisions. In making new law, the judges look at and analyse related areas of law, social customs, traditions, and social policies, then arrive at a conclusion.

D. Legal reasoning is an unusual kind of reasoning — so unusual that nearly four centuries ago, England’s Chief Justice Edward Coke had a heated dispute with King James I on whether the king himself could make court judgement. James I asserted that law was based on reason, and that he could reason as well as a judge. At the risk of his neck, Coke argued that although the king was a very smart fellow, he didn’t know the laws of England and, moreover, the king had only the ability to apply “natural” reason. Coke contended that legal cases “are not to be decided by natural Reason but by the artificial Reason and Judgement of Law.” In the end, Coke kept his neck and head, and the notion of “artificial” reasoning lives on with us in legal reasoning today.

E. This rudimentary three-step process is at the core of what is called *case reasoning*. The underlying simplicity of case reasoning can cause difficulty. Given the vast body of existing case law, each side of a dispute usually can find cases that are similar to the dispute at hand and whose outcomes are favourable to its own side.

Read the text about legal reasoning once again. Are the following sentences true or false?

1. King James I was sure that he could make court judgement as he knew the legal system very well.
2. James I managed to convince Edward Coke.
3. Edward Coke introduced the notion of “artificial” reasoning, although he was executed.
4. Case reasoning involves three stages.
5. The rules found in previous cases are never adapted to meet new conditions.
6. If a judge has to decide a case involving a topic the courts have never ruled on before he usually makes new law.
7. Case reasoning is easy to apply.
8. The essence of statutory interpretation is to understand what this law means.