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Настоящее пособие предназначено для обучения языку права. Оно включает разнообразные тексты из многих областей права.

Цель пособия – обучение «зрелому» чтению, т.е. выработке навыка изучающего, ознакомительного и просмотрового чтения. Главная задача – научить студента понимать текст по специальности, не прибегая к его анализу и переводу, а также выработать коммуникативные навыки.

Упражнения пособия направлены на правильное коммуникативное использование готовых вариантов, аргументирования, выражения своего отношения и т.д.

Пособие содержит аудиозапись диалогов.

Для студентов юридических факультетов высших учебных заведений, а также для широкого круга лиц, изучающих английский язык.

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Предисловие

Настоящее пособие предназначено для обучения языку права. Оно включает разнообразные тексты из многих областей права.

Тематическое расположение материала продиктовано учебным планом по специальности "Право" и способствует накоплению студентами фоновых знаний. Тексты пособия освещают те виды права, к которым студенты проявляют интерес в настоящее время и в которых впоследствии они будут специализироваться.

Тексты пособия взяты из оригинальных английских и американских источников различного стиля изложения – книг, научных статей, газетных и журнальных публикаций, а также действующих правовых документов. Поскольку язык права достаточно сложен, некоторые тексты подверглись сокращению и адаптации, но специфика юридического языка сохранена.

Цель пособия – обучение "зрелому" чтению, т.е. выработке навыка изучающего, ознакомительного и просмотрового чтения. Главная задача – научить студента понимать текст по специальности, не прибегая к его анализу и переводу. Должное внимание уделяется также приобретению коммуникативных навыков.

Система упражнений включает:

- подстановочные упражнения, целью которых является правильное коммуникативное использование готовых вариантов;
- ситуационно обусловленные коммуникативные упражнения на завершение ситуации, аргументирование, выражение своего отношения и т.д.;
- упражнения, стимулирующие свободное высказывание, а также задания, которые требуют многократного обращения к тексту.

Пособие не предусматривает обучение грамматике, так как введение его в учебный процесс подразумевается в III семестре, т.е. когда базовая грамматика уже изучена студентами. Однако некоторые моменты "грамматики чтения", диктуемые особенностями текста, выделяются для повторения.

Пособие состоит из пяти частей.

Часть I (Part One) содержит тексты по политической системе США и Великобритании, управлению государством, по его правовым основам, судебной системе, законотворчеству и т.д.

Тексты **Части II** (Part Two) знакомят с основными правовыми понятиями – закон, преступление и наказание, обвинение и защита, уголовное и гражданское право, права человека и т.д.

Приложения к обеим этим частям – это дополнительные тексты для чтения, перевода и обсуждения, которые повторяют юридическую лексику пройденного материала, способствуя ее закреплению.

Часть III (Part Three) содержит тексты, дающие представление о различных видах права. Каждый текст снабжен примечаниями, а в конце каждого раздела (Unit) приводится сводный глоссарий.

Тексты **Части IV** (Part Four) могут использоваться для различных целей:

- чтение и перевод без словаря;
- развитие навыка просмотрового чтения;
- развитие коммуникативных навыков на материале специальности.

Часть V (Part Five) содержит диалоги, которые записаны на прилагаемом к пособию компакт-диске. Диалоги читаются носителями языка. Этот материал может использоваться не только для аудирования, но и для других видов аудиторной работы.

Материал подготовили:

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Части IV и V – Т.М. Десяткова

PART ONE

Introduction to Law

SECTION I

The United Kingdom of Great Britain and Northern Ireland

UNIT ONE

Ex. 1. Вы будете читать текст о политической системе Великобритании. Просмотрите приведенные ниже слова и решите, какие из них могут встретиться в тексте. Переведите на русский язык.

a country	to form	a monarchy
a state	a house	a government
an exercise	prime-minister	a body
to write	a head	an opposition
to support	to choose	a cabinet
to depend	independent	a branch
a member	to consist	Parliament

Ex. 2. Прочитайте и переведите текст со словарем и проверьте, правы ли вы.

Text 1

UK POLITICAL SYSTEM

The United Kingdom of Great Britain and Northern Ireland is a **constitutional monarchy.** This means that Great Britain is governed by Parliament and the **Queen is Head of State.**

The legislative power in the country **is exercised by the Houses of Parliament.** The British Parliament consists of two chambers: **the House of Lords** and **the House of Commons.** The House of Lords **is composed of hereditary and life peers** and **peeresses. The members** of the House of Commons **are elected by the people.** They **are elected from the constituencies** in England, Scotland, Wales and Northern Ireland. The House of Commons **is the real governing body** of the United Kingdom. **The executive power** is exercised by the **Prime Minister** and his **Cabinet.** The government is usually formed by the political party which **is supported by the majority** in the House of Commons. The Prime Minister is the majority party leader and **is appointed by** the Queen. The Prime Minister **chooses a team of ministers;** twenty of the ministers are in the Cabinet.

The second largest party becomes the official opposition with its own leader and **the Shadow Cabinet.** The two leading parties in Great Britain are the Conservative Party (the Tories) and the Labour Party.

The judiciary branch of the government determines common law and is independent both of the legislative and the executive branches.

There is no written constitution in Great Britain, only precedents and traditions.

Ex. 3. Сверяясь с текстом, скажите, в каком значении употребляются приведенные ниже слова.

to exercise — упражняться, тренировать, осуществлять
a house — дом, торговая фирма, театр, палата
a team — команда, упряжка, артель
a branch — ветка, отрасль, филиал, ветвь
a body — тело, группа людей, организация, орган
power — сила, энергия, способность, держава, власть

Ex. 4. Найдите в тексте следующие глаголы.

поддерживать, выбирать, зависеть, состоять, определять, назначать, образовывать(ся), управлять

Ex. 5. Образуйте другие части речи от данных ниже существительных.

power, government, election, opposition, independence, meaning, house

Vocabulary Notes

a constitutional monarchy — конституционная монархия
the Queen — королева
Head of State — глава государства
the legislative power — законодательная власть
to be exercised by — осуществляться (чем-л.)

the Houses of Parliament – парламент
the House of Lords – палата лордов
the House of Commons – палата общин
to be composed of smth – состоять из чего-л.
hereditary and life peers – наследственные и пожизненные лорды и пэры
a peeress – пэресса
a member – член (чего-л.)
to be elected by the people – избираться народом
to be elected from a constituency – избираться от избирательного округа
the real governing body – реальный правящий орган
the executive power – исполнительная власть
Prime Minister – премьер-министр
the Cabinet – кабинет
to be supported by the majority – поддерживаться большинством
to be appointed by – назначаться (кем-л.)
to choose a team of ministers – создавать команду министров
the Shadow Cabinet – теневой кабинет
the judiciary branch of the government – судебная власть
to determine common law – определять общее право
to be independent of smth – не зависеть от чего-л.

Ex. 6. Прочитайте текст и выявите информацию, которой НЕ было в Тексте 1.

The United Kingdom of Great Britain and Northern Ireland is a constitutional monarchy. This means that the government of the United Kingdom consists of a hereditary sovereign, an elected House of Commons and a partly hereditary House of Lords.

The sovereign has the title of King (or Queen). The Sovereign has very few functions that really matter, such as the functions of the arbiter of last resort (*арбитр последней инстанции*) in some matters. These matters can be the dissolution of Parliament (*роспуск Парламента*) and invitations to form a government when there is no clear majority. The Queen is Elizabeth II.

The supreme legislative power is vested in Parliament, which sits for 5 years unless dissolved sooner. Parliament has two chambers: the House of Lords with about 830 hereditary peers, 26 spiritual peers, about 270 life peers and peeresses, and the House of Commons. The House of Commons has 650 popularly elected members. The House of Commons is the real governing body of the United Kingdom. In order to become a law, a new bill proposed by the Cabinet must be approved by both houses of Parliament.

The Lords cannot veto a bill, but they can delay it for a maximum of one year. Financial bills cannot be delayed by the House of Lords.

The executive power of the Crown is exercised by the Cabinet, headed by the Prime Minister. The Prime Minister, normally the head of the party commanding a majority in the House of Commons, is appointed by the Sovereign. The Prime Minister appoints the rest of the Cabinet. All ministers must be members of one or the other houses of the Parliament. They are individually and collectively responsible to the Crown and the Parliament. The Cabinet proposes bills and arranges the business of the Parliament.

Government in Britain since 1945 has alternated between only two political paries, the Conservatives (the Tories) and the Labour Party. No other party has been in office at all since 1945 and there have been no coalitions. The third long-established party, the Liberals, enjoyed moments of success, but no member of the Liberal Party has held government office since 1945.

Ex. 7. Ответьте на вопросы по-английски.

1. What does the term "constitutional monarchy" mean?
2. What body exercises the legislative power in the country?
3. How are the chambers of Parliament composed?
4. What body exercises the executive power?
5. How is the executive branch of the government formed?
6. What is the official opposition?
7. What does the judiciary branch of the government do?
8. Is there a written Constitution in Great Britain?

Ex. 8. Используя информацию, содержащуюся в Текстах 1 и 2, расскажите о политической системе Великобритании (по-русски или по-английски).

Ex. 9. Прочитайте текст без словаря.

Text 2

The Queen Elizabeth II is the official Head of State and for many people she is a symbol of unity of the nation.

Queen Elizabeth II is not only the monarch of the United Kingdom but also of Australia, Canada and New Zealand, as well as many other countries in the **Commonwealth** (an association of States that were once ruled by Britain). She is also Head of the Church of England. However, the Queen has almost no power to influence the church.

As Head of the Commonwealth, the Queen has more freedom from the government. When the Queen was growing up, the British Empire still had colonies, and she watched as they became independent members of the

Commonwealth. She has met and knows the leaders of these countries. Although she has no executive powers as Head of the Commonwealth, she takes her role very seriously. However, Britain is now a member of the **European Community** and is moving away from its links with the Commonwealth. In addition, people in some of the major Commonwealth countries, such as Australia and Canada, wonder if they should be connected to a monarch so far away.

Queen Elizabeth II is married to Prince Philip, Duke of Edinburgh. The **heir** to the throne is Prince Charles, the Prince of Wales.

The Queen's other children are Princess Anne, Prince Andrew and Prince Edward. This group is usually called the royal family, together with Queen Elizabeth's mother – the Queen Mother who died in 2002 at the age of 101.

The Queen's power is limited by Parliament but every week she meets the Prime Minister and receives copies of the all cabinet papers.

Elizabeth is the head of the executive, of the judicial power and the commander-in-chief of the armed forces of the U.K. . She also has to fulfil her ceremonial functions such as opening of Parliament, for example.

Vocabulary Notes

Commonwealth – Британское Содружество Наций
European Community – Евросоюз
heir – наследник

Ex. 10. Прочитайте и переведите перечисленные функции английского монарха и укажите, какие из них НЕ упомянуты в Тексте 2.

Functions of the Queen
– opening and closing Parliament;
– approving the appointment of the Prime Minister;
– giving her Royal Assent to bills;
– giving honours such as peerages, knighthoods and medals;
– Head of the Commonwealth;
– Head of the Church of England;
– Commander-in-Chief of the armed forces.

Ex. 11. Прочитайте следующие предложения и выявите предложения, НЕ соответствующие содержанию Текста 2.

1. The Queen of the UK is not absolute but constitutional.
2. The highest judicial body in the UK is the House of Lords.
3. The Queen is the Head of the Church of England.
4. The Royal Family takes part in public life and has many official duties.

5. The Cabinet provides the Queen with the copies of all documents under discussion.
6. Each new Prime Minister may make changes in the size of the Cabinet.
7. The Cabinet and other ministers are responsible for the national policy.
8. Her Majesty the Queen is one of the richest women in the world.

Ex. 12. Прочитайте текст и найдите ответ на вопрос: "Каким образом королева и королевская семья субсидируются правительством?"

The Richest Woman in the World

No one knows exactly how much money the Queen has: it is difficult to work out the value of her possessions, many of which she has inherited (*наследовать*). Some people say that the value of the royal art collection alone makes her the richest woman in the world.

The Queen also has a large income (*доход*) which covers her "personal" expenditure (*расходы*). Until recently, she did not pay tax (*платить налоги*). However, in November 1992 the Queen volunteered to pay tax on her annual private income.

Since the beginning of the 18th century, monarchs have had to give the revenues (*доходы*) from their hereditary estates (*земельные владения, полученные по наследству*) to the country. In return, the monarch receives an income from the government, known as the Civil List. The Civil List pays for the staff and organisation needed for the royal family's official duties. The Queen gets nearly £8 million a year for these duties. The Queen will now refund (*рефинансировать*) the money the government gives to the rest of the royal family from her private income.

The total cost of the monarchy is around £60 million a year. Many people think the amount is too high.

Ex. 13. Объясните по-английски.

1. How do you understand the term "a constitutional monarch"?
2. Is monarchy relevant in the modern world? Give your reasons.

Ex. 14. Прочитайте и переведите текст.

Text 3

PARLIAMENT AT WORK

Parliament is the most important law-making body of the British people consisting of the House of Commons, the House of Lords and the Sovereign (i.e., king or queen).

A. The House of Commons, the lower house of the British Parliament, consists of 650 elected MPs:

523 for England
72 for Scotland
38 for Wales
17 for Northern Ireland

The main purpose of the House of Commons is to make laws of the land by passing various Acts (of Parliament), as well as to discuss **current** political **issues**. The House sits for five days each week. Each "**sitting**" starts in the afternoon and may go on throughout the night. The House sits for about 175 days in the years, and has a maximum term of five years.

All speeches in the House of Commons are addressed to the Speaker who is elected at the beginning of each new Parliament to preside over the House and enforce the rules of order.

The Speaker must be a person with a rare mix of **qualities**: he has to be able to cope with the difficult task of conducting debates; be respected for **impartiality**; possess a **sound** knowledge of parliamentary procedure; have tact and judgement in **handling debates**; and have a firmness of command in controlling the House.

The debates take place in accordance with a programme previously arranged. It often concerns a broad issue of foreign or home policy, or it may be the examination of the contents of a bill.

So, the House of Commons is the main place where legislation and other decisions of government are criticized. Its work includes the following:

a) legislation: the House spends nearly half its time making laws.

b) controlling finance: before the Government can raise or spend money, it must have permission from the House of Commons.

c) **scrutinizing** the Government by asking questions, by holding debates and by committee work.

B. The House of Lords

There are over 1,000 members of the House of Lords. They are an unelected group of people who have either inherited their seats or have been given them by the Government. The Lord Chancellor sits in the middle and supervises debates. He sits on "the wool sack", a seat which contains wool from all the Commonwealth countries.

The House of Lords takes part in the making of laws, the examination of the Government's work and in debating important matters of the day. This second chamber is not as powerful as the House of Commons. It can suggest changes in laws, but is restricted to laws that have nothing to do with the finances of the country (for example, it cannot suggest any changes to the Budget). The House of Lords cannot **reject** laws that the House of Commons wants to pass, though it can **amend** them. Even then, the Commons can reject these amendments. The work of the House of Lords includes:

a) legislation: **reviewing** and giving further consideration to Bills.
b) examining the work of the Government by debate.
c) examining European proposals.
d) hearing legal appeals.

There is an ongoing debate concerning the role of the House of Lords in British politics and there have been attempts to limit its power further. One example of this which has come under frequent scrutiny is the system of hereditary peerage.

Vocabulary Notes

i.e.= id est= that is – т.е.
current issues – текущие проблемы
sitting – заседание
a quality – качество
impartiality – беспристрастность
sound – зд. точный, глубокий
to handle debates – вести дебаты
to scrutinize – тщательно исследовать
to reject – отвергать
to amend, to make amendments – вносить поправки
to review – пересмотреть

Ex. 15. Найдите в тексте слова и выражения, которые используются для описания работы обеих палат британского парламента. Переведите их на русский язык.

Ex. 16. Найдите в a) и b) слова с одинаковым значением.

a) term; chamber; limit; reject; propose; control; happen; pass; issue; amend; examine
b) veto; supervise; adopt; period; house; suggest; make amendments; matter; restrict; take place; scrutinize

Ex. 17. Выберите черты характера, которыми, по-вашему мнению, должен обладать политический деятель.

1. an ability to organize people
2. an ability to choose the right person for a right job
3. an ability to handle debates
4. an ability to control the meetings
5. a good knowledge of a parliamentary procedure
6. to be impartial
7. to be honest
8. to be responsible
9. high standards of personal behaviour
10. firmness of command

Ex. 18. Расскажите о каком-нибудь выдающемся политическом деятеле, о его личности (personality), взглядах (ideas), деятельности (activities).

Ex. 19. Переведите письменно, пользуясь словарем.

Parliamentary Debates. Parliament is a place where politicians can speak about public matters, express points of view, argue, try to persuade, support and oppose other members. Indeed, the very word tells us this is its function (compare the French "parler", "to speak"). What is more, this free exchange of ideas is vital for a democratic form of government. People are bound to differ about political and economic priorities; and wise and just policies are more likely to result from widespread discussion than from decisions made by a few.

Parliament debates require two kinds of skill: the ability to argue and to deliver a prepared speech. For argument the speaker needs a good memory stored with relevant information; speed of thought and fluency of speech quickly to express his reaction to the previous speaker. In addition, he needs the qualities which enable him to deliver a speech: audible and clear diction, and an interesting tone of voice. He must be able to judge the mood of the House and adapt his wit or style to match the occasion. He must never be dull and always have something of importance to say. One MP who met most nearly all these criteria in this century was Winston Churchill.

Ex. 20. Прочитайте текст без словаря.

Text 4

A. GOVERNMENT

The UK is governed by the Government – a body of ministers who are responsible for the administration of national affairs. The ministers are the leading members of the political party which wins a majority of seats in Parliament. The party which wins the second largest number of seats in Parliament becomes the official Opposition.

The Prime Minister, the leader of the party with a majority, is appointed by the Queen. (The Queen appoints, but does not select the Prime Minister. She has no choice.) All other Ministers are appointed by the Queen on the recommendation of the Prime Minister. The majority of ministers are members of the Commons, although the Government is also fully represented by ministers in the Lords. The Lord Chancellor is always a member of the House of Lords.

The Cabinet. The most senior Ministers (usually about 20 in number) compose the Cabinet, which meets regularly (once or twice a week) under

the chairmanship of the Prime Minister to decide government policy on major issues, exercise supreme control of government and co-ordinate government departments.

Minister are responsible collectively to Parliament for all Cabinet decisions; individual ministers are responsible to Parliament for the work of their departments.

The "Shadow Cabinet". The Opposition party, which is not currently in power, under the direction of its leader forms a "Shadow Cabinet". The ministers in the Shadow Cabinet deal with the same matters as the Cabinet of Ministers in the current government, debating with the actual Cabinet ministers from the Government side.

The people elects MPs.
After an election a Government is formed.
Prime Minister is appointed by the Queen.
The Prime Minister selects his Ministers.
The Ministers form the Cabinet.
The Cabinet decides Government policies.
The Parliament agrees to support or reject Government policies and laws.

B. PARLIAMENTARY CONTROL

Ministers are responsible to Parliament for their department and its actions. The Commons can force a government to **leave office**. This happened in 1979, when the official Opposition put forward a **no-confidence** motion which was carried by one vote. The Government was therefore obliged to advise the Queen to dissolve Parliament and a general election followed.

One of Parliament's most prized occasions is Commons' Question Time. For roughly one hour a day, ministers are asked by MPs searching questions on major government policies. This is often the best way for MPs **to probe** ministers about government intentions. The Prime Minister is questioned twice a week.

Vocabulary Notes

to leave office — уйти в отставку
no-confidence — вотум недоверия
to probe — зондировать

Ex. 21. Найдите в тексте эквиваленты следующих слов и выражений.

быть ответственным; управление делами государства; партия большинства; под председательством; "теневой кабинет"; проблема; политика правительства; деятельность; распустить парламент; уйти в отставку.

Ex. 22. Составьте предложения, соединив подходящие части.

the government	is appointed
the government policy	is formed
the laws	are supported
the ministers	are rejected
the "Shadow Cabinet"	are selected
	can be forced to leave the office

Ex. 23. Прочитайте текст и расскажите (по-английски или по-русски) о политических партиях Великобритании.

The Political Party System

The present system relies upon the existence of organised political parties. Most candidates in elections, and almost all winning candidates, belong to one of the main parties.

For the last 150 years a two-party system has operated and since 1945 either the Conservative Party, which can trace (*проследить*) its origin (*происхождение*) to the eighteenth century, or the Labour Party, which emerged (*появиться*) in the last decade of the nineteenth century, has held power. A new party – the Social and Liberal Democrats (now known as the Liberal Democrats) – was formed in 1988 when members of the Liberal Party (which could trace its origins to the eighteenth century) merged (*слиться*) with members of the Social Democratic Party, which was itself formed in 1981.

Other parties include two nationalistic parties, Plaid Cymru (founded in Wales in 1925) and the Scottish National Party (founded in 1934). In Northern Ireland there are a number of parties; the largest of those represented in the House of Commons is the Ulster Unionist Party, which was formed in the early part of this century, and the Democratic Unionist Party, founded (*основывать*) in 1971 by a group which broke away from the Ulster Unionists.

Parties

the Conservative Party
the Labour Party
the Liberal Democrats
Plaid Cymry (Wales)
The Scottish National Party
The Ulster Unionist Party
The Democratic Unionist Party (Northern Ireland)

Ex. 24. Поставьте знак "+" в ту графу, где обозначенная слева деятельность, является функцией: королевы (Q), Палаты Общин (HC) или Лордов (HL)

Activities	Q	HC	HL
Legislation			
Controlling finance			
Giving Royal approval to laws			
Hearing legal appeals			
Appearing on radio and TV			
Annual opening of Parliament			
Running the country			
Suggesting changes to the budget			
Examining the work of the Government (by debates or in committees)			

Ex. 25. Расскажите по-английски, в 3-4 предложениях, как формируется правительство Великобритании.

Ex. 26. Прочитайте текст без словаря.

Text 5

ELECTIONS

Britain is a democracy. Men and women over 18 years have a **vote**. They have the right **to elect** a representative to Parliament. Voting is not **compulsory**.

The simple **majority system** of voting is used in parliamentary elections in Britain. This means that the candidate with the largest number of votes in each **constituency** is elected, although he or she may not necessarily have received more than half the votes cast.

A candidate is elected if he or she has a majority of votes over the next candidate. British citizens may **stand** and be elected as MPs (members of Parliament) if they are aged 21 or over and are not subject to any disqualification.

Those disqualified include bankrupts, people **sentenced** to more than one year's imprisonment, clergy of the Church of England, Church of Scotland, Church of Ireland and Roman Catholic Church, peers, members of the regular armed forces or the police service and some others.

For electoral purposes Britain is divided into constituencies; citizens in all the various British constituencies vote for their local MP.

The British government is elected for 5 years and it is the Prime Minister who chooses the date of the next **General Elections**. When the date is **announced** the Prime Minister usually asks the Queen to dissolve Parliament. So, the **election campaign is launched** all over the country and it usually lasts about three weeks.

Voting takes place on Polling Day. When the results are known and it becomes clear what party has a majority of seats in the House of Commons, its leader forms a government by Her Majesty's request.

Vocabulary Notes

vote – право голоса
to elect – выбирать
compulsory – обязательный
majority system – мажоритарная система
a constituency – избирательный округ
to stand – стать кандидатом
to sentence – приговаривать к...
General Election – Всеобщие выборы
to announce – объявлять
to launch an election campaign – начать избирательную кампанию

Ex. 27. Найдите в тексте английские эквиваленты следующим сочетаниям.

сформировать правительство; продолжаться около трех недель; распустить парламент; объявить дату выборов; избирательный округ;

Ex. 28. Соотнесите значения слов в левой колонке, с их эквивалентами в правой колонке.

a. choose	1. come to an end
b. minority	2. a period of planned activities
c. dissolve	3. a great number
d. compaign	4. a representative in the House of Commons
e. majority	5. express one's opinion during elections
f. vote	6. pick out of smth
g. MP	7. a small number
h. function	8. work

Ex. 29. Расположите предложения в логической последовательности так, чтобы получился пересказ текста.

1. For electoral purposes Britain is divided into constituencies.
2. When one of the parties wins, its leader is invited by the Queen to form a government.
3. It is the Prime Minister who chooses the date of the election.
4. The majority system of voting is used in parliamentary elections in Britain.
5. Men and women over 18 years old have the right to vote.
6. Voting takes place on Polling Day.
7. When the date of the election is known, the Prime Minister asks the Queen to dissolve Parliament.
8. The British Government is elected for five years.
9. The election campaign is launched

Ex. 30. Переведите письменно на английский язык.

1. Великобритания является монархией, но власть королевы не абсолютна, а конституционна.
2. Премьер-министр является лидером партии, которая имеет большинство в Палате Общин.
3. Кабинет обычно помогает премьеру принимать политические решения.
4. Власть монополистов в Великобритании достаточно сильна. Они имеют места в Парламенте и осуществляют давление на Кабинет Министров.

Ex. 31. Не заглядывая в текст, вспомните те слова и выражения, которые понадобились бы вам для описания выборов в британский парламент.

Ex. 32. Прокомментируйте по-английски следующее высказывание.

"It is not the voting that is democracy, it is counting."

Unit Two

Ex. 1. Прочитайте и переведите текст, пользуясь словарем.

Text 1

HOW LAWS ARE MADE IN THE UK

Once MPs take their seats in parliament their most important job is to make **legislation**. Every year, parliament **passes** about a hundred **laws** directly, by making Acts of Parliament.

New legislation in Britain usually starts in the House of Lords. Any new law can be passed only when it has completed a number of stages in the House of Commons and in the House of Lords. Before a Bill can go through all its stages in parliament it has to be written down, or **drafted**. The Bill has to be exact, so that no misunderstandings can occur and so it can be understood by as many people as possible.

First and second readings. In the days before printing, the only way MPs could find out what a Bill contained was by having the contents read out to them. Therefore the next stages within parliament are known as "readings", although now MPs do have a printed copy! The first reading lets MPs known that the Bill is coming up for discussion. There is no voting at this stage. The second reading explains the purpose of the Bill, and the House has to vote on it. If the House votes for the Bill, it proceeds to the Committee stage.

The Committee stage. This involves a small group – or committee – of about 18 MPs looking in detail at the Bill and suggesting amendments. This stage is present because of time limits in the House of Commons.

The Report stage. Now the House of Commons is told what the Committee decided.

Third reading. The Bill then goes to the third reading, which gives the House of Commons a chance to look again at the Bill as a whole.

Consideration by the House of Lords. Once it has passed its third reading, the Bill is carried to the House of Lords. This second chamber can be very useful; a different group of people can often see something in a different way. The House of Lords has the time to examine Bills and make amendments.

As in the Commons, the Bill goes through a number of stages. The first reading introduces the Bill, the second reading explains it in more detail, then it goes to the Committee stage. The Committee stage is different in that it is conducted in the chamber of the House itself, not in a committee room. Any Lord who is interested in the Bill can take part in the discussion. This stage is followed by the Report stage and then the third reading, where the Lords get their last chance to look at the Bill as a whole.

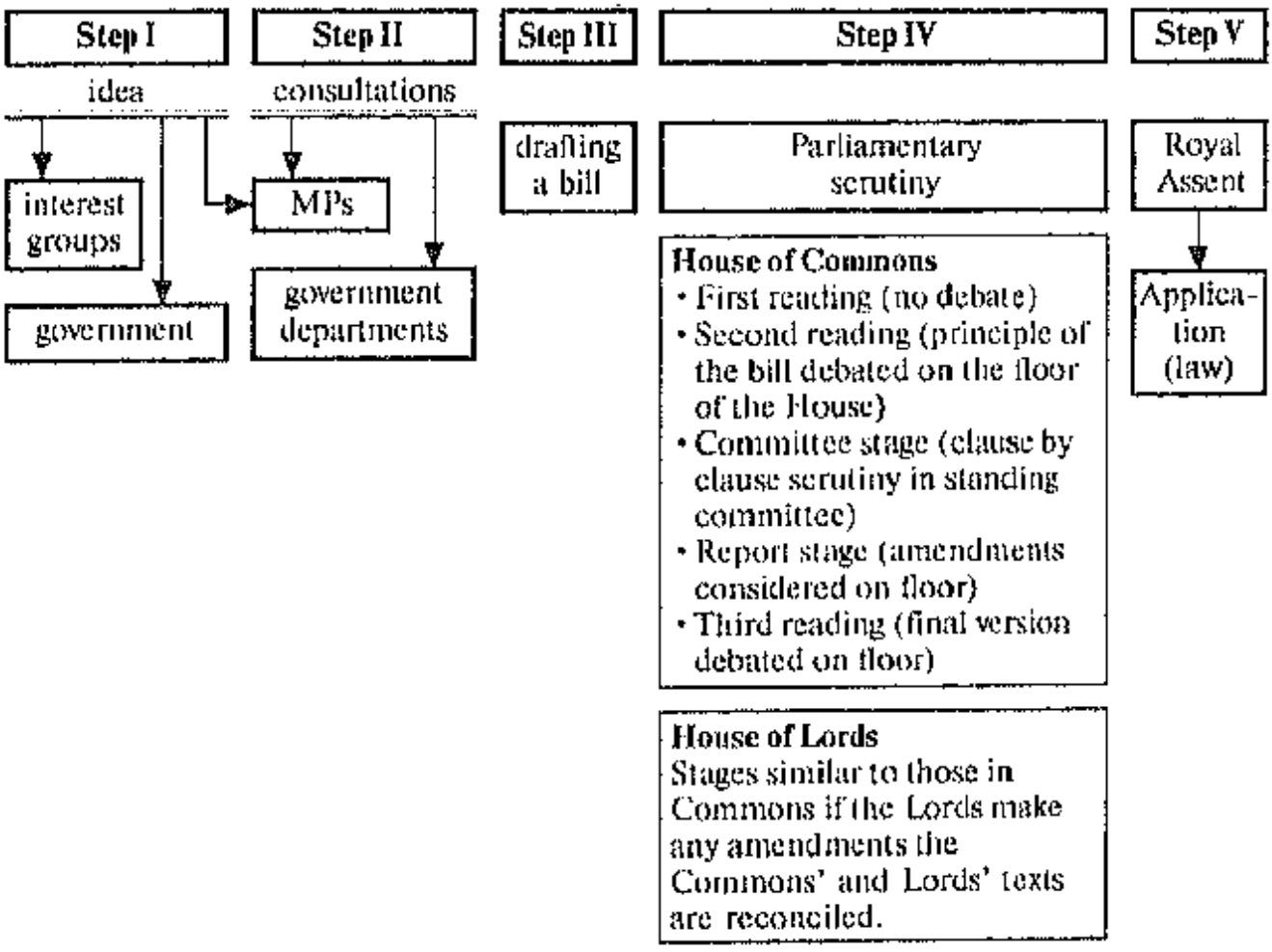
The Royal Assent. If the Bill passes this process, it is automatically given the Royal Assent. However, if the Lords have made any changes to the Bill, it is taken back to the House of Commons. If the House of Commons does not agree with the changes, they send a note to the Lords explaining the reasons. A Bill may go **to and fro** until an agreement can be reached. If the two Houses are unable to agree, the Commons can reintroduce the Bill the following year when the Lords have to accept it, so a compromise is usually reached quite early on. The whole process, from first reading to Royal Assent can take from a few days up to 11 months.

Vocabulary Notes

legislation – законодательство
to pass a law – принять закон
to draft – представить проект (закона)
to and fro – взад и вперед, туда – сюда

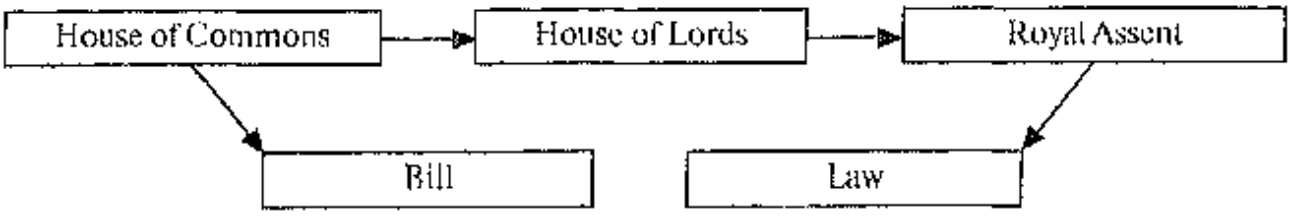
Ex. 2. Пользуясь текстом и схемой, расскажите, как билль становится законом.

How a Government Bill is Made



Bill And Law

In the British Parliament a bill is usually produced by the Government, and discussed in the House of Commons. Then it goes to the House of Lords. Finally, it receives the Royal Assent (it is signed by the Queen) and becomes law.



Ex. 3. Прочитайте текст и перескажите его по-русски.

Text 2

THE COURT SYSTEM OF ENGLAND AND WALES

The most common type of law court in England and Wales is the **magistrates' court**. There are 700 magistrates' courts and about 30,000 magistrates.

More serious criminal cases then go to the **Crown Court**, which has 90 branches in different towns and cities. Civil cases (for example, divorce or bankruptcy **cases**) are dealt with in **County courts**.

Appeals are heard by higher courts. For example, appeals from magistrates' courts are heard in the Crown Court. The highest **court of appeal** in England and Wales is the House of Lords. (Scotland has its own High Court in Edinburgh, which hears all appeals from Scottish courts.) Certain cases may be referred to the **European Court of Justice** in Luxembourg.

The legal system also includes **juvenile courts** (which deal with offenders under seventeen) and **coroners' courts** (which investigate **violent**, sudden or unnatural deaths). There are administrative tribunals which **make** quick, cheap and **fair decisions** with much less formality. Tribunals deal with disputes between individuals and disputes between individuals and government departments (for example, over **taxation**).

Vocabulary Notes

magistrates' court – мировой суд
Crown Court – Суд Короны
case – судебное дело
County court – суд графства
court of appeal – апелляционный суд
European Court of Justice – Европейский суд
juvenile court – суд по делам несовершеннолетних
violent – насильственный

coroners' court – суд, рассматривающий дела о насильственной смерти
to make a decision – принимать решение
fair – справедливый
taxation – налогообложение

Ex. 4. Приведите 2-3 примера различных правонарушений и скажите, в каких судах они должны рассматриваться. Обоснуйте вашу точку зрения.

Ex. 5. Выучите следующие слова и выражения.

a barrister – адвокат, выступающий в суде
a solicitor – поверенный
a judge – судья
advocacy – адвокатура
to examine the case – изучить дело
litigation – тяжба, гражданское дело
to rely on – полагаться на
self-employed – *зд.* иметь частную практику
the right of audience – право выступать в суде
Bar – коллегия адвокатов
in house lawyer – юрист, постоянно работающий в компании

Ex. 6. Прочитайте текст и расскажите по-русски о юридических профессиях в Великобритании.

Text 3

There are about 66,000 practising solicitors and over 8,000 practising barristers in England and Wales. Solicitors and barristers work together on cases but the solicitor is the first point of contact with the law for a client in the UK. The solicitor listens carefully to the client and then explains the legal position and gives advice. Barristers will only see the client in the company of a solicitor who prepares all the documents relevant to the case which will be examined by the barrister.

The barrister is a specialist in advocacy and he has the right of audience. There are only a few solicitors who are allowed to present cases in the higher courts.

Barristers are self-employed in the independent Bar. Solicitors normally get salaries but sometimes they can get extra money in the profits if they are successful.

In addition to the barristers practising in England and Wales, there are 2000 barristers working as in-house lawyers.

Judges in England and Wales have been barristers for not less than 10 years. Since judges are appointed, they can't work as barristers.

Solicitors do a variety of work – property, private law, banking, finance, employment law and environmental law.

Ex. 7. Ответьте на вопросы:

1. What is the main difference between a barrister and a solicitor?
2. What kind of lawyers can become judges?
3. Is it better for a company to have an in-house lawyer or to invite a lawyer in case of necessity? Give your reasons.

SECTION II

The United States of America

UNIT ONE

Ex. 1. Прочитайте и переведите текст.

Text 1

A. US GOVERNMENT

The USA is a presidential republic. The **legislative branch** of the US Government, or the Congress, **represents** all of the American states. It consists of two parts: **the House of Representatives** and **the Senate**. Each state has two senators, who are **elected** every 6 years. A senator must be at least 30 years old, a citizen of the United States for 9 years, and live in the state he or she will represent. A representative must be at least 25 years old, a citizen for 7 years, and live in the state.

The job of the Congress is **to make laws**. The President can **veto a bill**. The Congress can pass the law anyway if it gets a two-thirds **majority vote**. The Congress can also **declare war**. The House of Representatives can also **impeach the President**. This means that the House can **charge** the President with a crime. In this case, the Senate will put the President on trial. The Senate **votes** to approve the justices that the President appoints to the Supreme Court.

The executive branch of the government puts the country's laws into effect. The President of the United States is a member of the executive

branch. The President must be at least 35 years old, be a natural citizen of the USA. In addition, he must have lived in the US for at least 14 years, and be a civilian. The President is elected every four years and cannot serve more that two **terms**. The Vice-President of the USA is president of the Senate. When the President receives a bill from the Congress, he must sign it, and then the bill becomes a law. However, if he disagrees with the law, he can veto it. The President can also ask the Congress to declare war. He also appoints the justices to the Supreme Court. He must do his job according to the Constitution, or he may be impeached.

The judicial branch of the government is the system of courts in the United States. Its job is to enforce laws. The Supreme Court is the highest court in the country. It consists of 9 justices: one **Chief Justice** and 8 **Associate Justices**. The President **appoints** the justices, but the Senate must approve them. The justices are appointed for life. The Supreme Court makes sure that people obey the laws. The Supreme Court can also decide if a law is constitutional, that it is in agreement with the Constitution. The judicial branch works together with the legislative and executive branches to protect the Constitution and the rights of people.

Vocabulary Notes

the legislative branch of the government – законодательная власть
to represent – представлять
the House of Representatives – Палата представителей
the Senate – Сенат
to elect, election – избирать, выборы
to make laws – создавать законы
to enforce a law – проводить закон в жизнь
to obey a law – исполнять закон
to pass the law – провести закон
to veto a bill – наложить вето на законопроект
majority/minority – большинство/меньшинство
to declare war – объявить войну
to impeach the President – подвергнуть президента импичменту
to charge – обвинить в каком-либо преступлении
to vote – голосовать
executive branch – исполнительная власть
a term – срок полномочий
the Supreme Court – Верховный Суд
justice – судья
Chief Justice – Главный Судья
Associate Justice – Член Верховного Суда

to appoint – назначать
the judicial branch – судебная власть

Ex. 2. Выберите в тексте слова, которые являются юридическими терминами. Переведите их и запомните.

Ex. 3. Дайте возможные словосочетания с предлагаемыми глаголами.

to elect; to appoint; to sign; to consist; to protect; to become; to vote.

Ex. 4. Найдите в тексте английские эквиваленты следующих русских слов и выражений.

в этом случае; обвинять; гражданин, имеющий американское подданство; одобрять; срок; быть в соответствии с; подписывать; защищать права; проводить в жизнь закон; гражданское лицо; гражданин страны по рождению.

Ex. 5. Закончите предложения в соответствии с текстом.

1. The job of the Congress is.....
2. The US President.....
3. A senator must be.....
4. The Supreme Court consists of.....
5. The judicial power is.....

Ex. 6. Ответьте на вопросы.

1. What branches does the government of the USA consist of?
2. Who does the highest executive power belong to?
3. Who represents the legislative power in the USA?
4. What is the judicial branch of the government? What is its job?.

Ex. 7. Прочитайте текст и выявите ту информацию, которой НЕ было в Тексте А.

B. US GOVERNMENT

By the Constitution of 1787 the government of the USA is composed of three branches: the executive one, the legislative one, and the judicial one.

The highest executive power in the United States is with the President of the United States, who is elected for a term of 4 years by **electors** of each state. The President of the USA must be a native-born citizen, resident in the country for 14 years and at least 35 years old.

The President is **to carry out** the programmes of the Government, to recommend much of the legislation to the Congress.

The President is also responsible for

- carrying out and enforcing laws made by Congress;
- nominating people for federal offices;
- negotiating treaties with other nations;
- conducting wars.

In addition, the president is given the power

- **to pardon** people convicted of crimes
- to send and receive ambassadors to and from other countries.

Veto. The president shares in the legislative power through the veto. Although the president can veto a bill passed by Congress, the bill can still become a law if two-thirds of both houses of Congress vote to override the veto

Appointments. The power to appoint executive branch officials and federal judges is shared with Congress. The president has the power to nominate persons to fill those positions, but the Senate has the right to **approve** or **disapprove** of the persons nominated. To prevent corruption of Congress, members of Congress are not allowed to hold another federal office.

The legislative power belongs to the Congress of the United States consisting of two **chambers**: the Senate and the House of Representatives. The Senate is composed of two members from each state elected for a term of 6 years, one third being elected every two years. The number of representatives from each state to the House of Representatives depends on the number of people in each particular state.

In order to become a law all bills and resolutions must pass both the Houses and must be signed **by** the President.

The Supreme Court is the highest judicial organ of the United States and the head of the judicial branch of power. The Supreme Court consists of the Chief Justice of the USA and a number of Associate Justices.

There are about 90 district courts in different part of the United States. The district courts are the lowest ones in the Federal court system. Most of the criminal and civil cases are **tried** by these courts.

Each state has a constitution similar to the Constitution of the USA and all the power in each state is divided into executive, legislative, and judicial. The head of each state is the governor of the state.

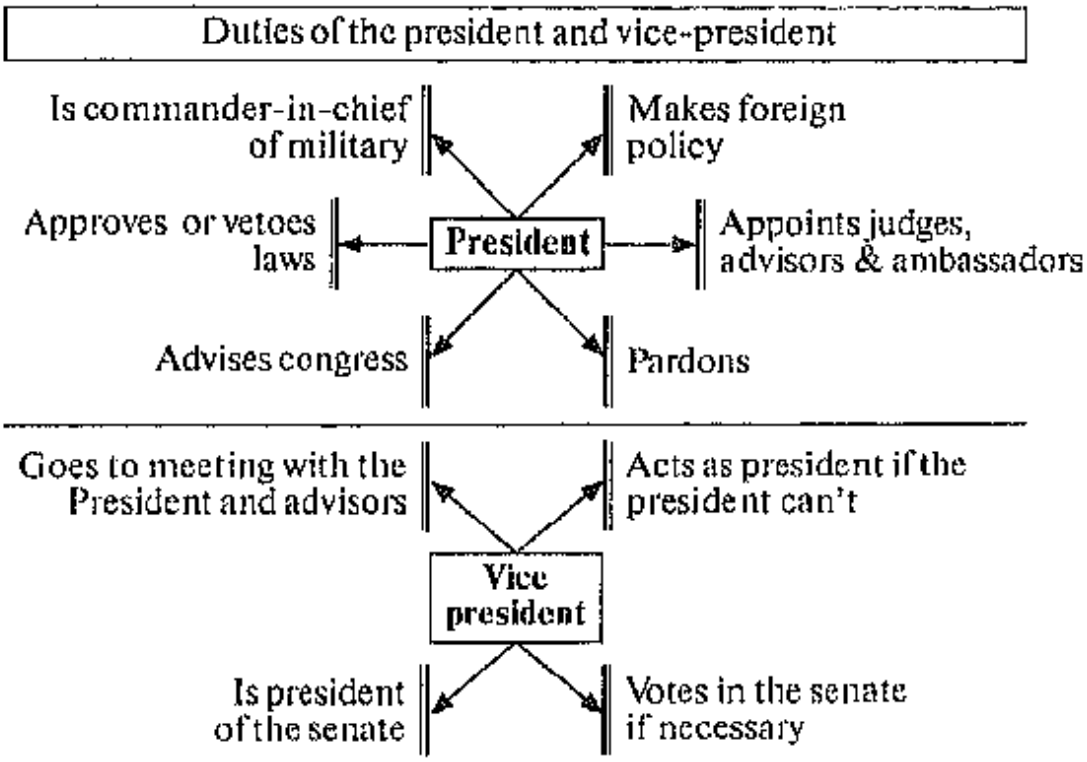
Each state has its own system of courts similar to that of the Federal courts.

Vocabulary Notes

electors – выборщики
to carry out – выполнять
to enforce a law – проводить закон в жизнь

to negotiate – вести переговоры
to pardon – помиловать
to override – не принимать во внимание
to (dis)approve – (не)одобрять
a chamber – палата
in order to – для того, чтобы
similar (to) – подобный
to try a case – рассматривать дело

Ex. 8. Скажите, отражает ли данная схема информацию, приведенную в тексте.

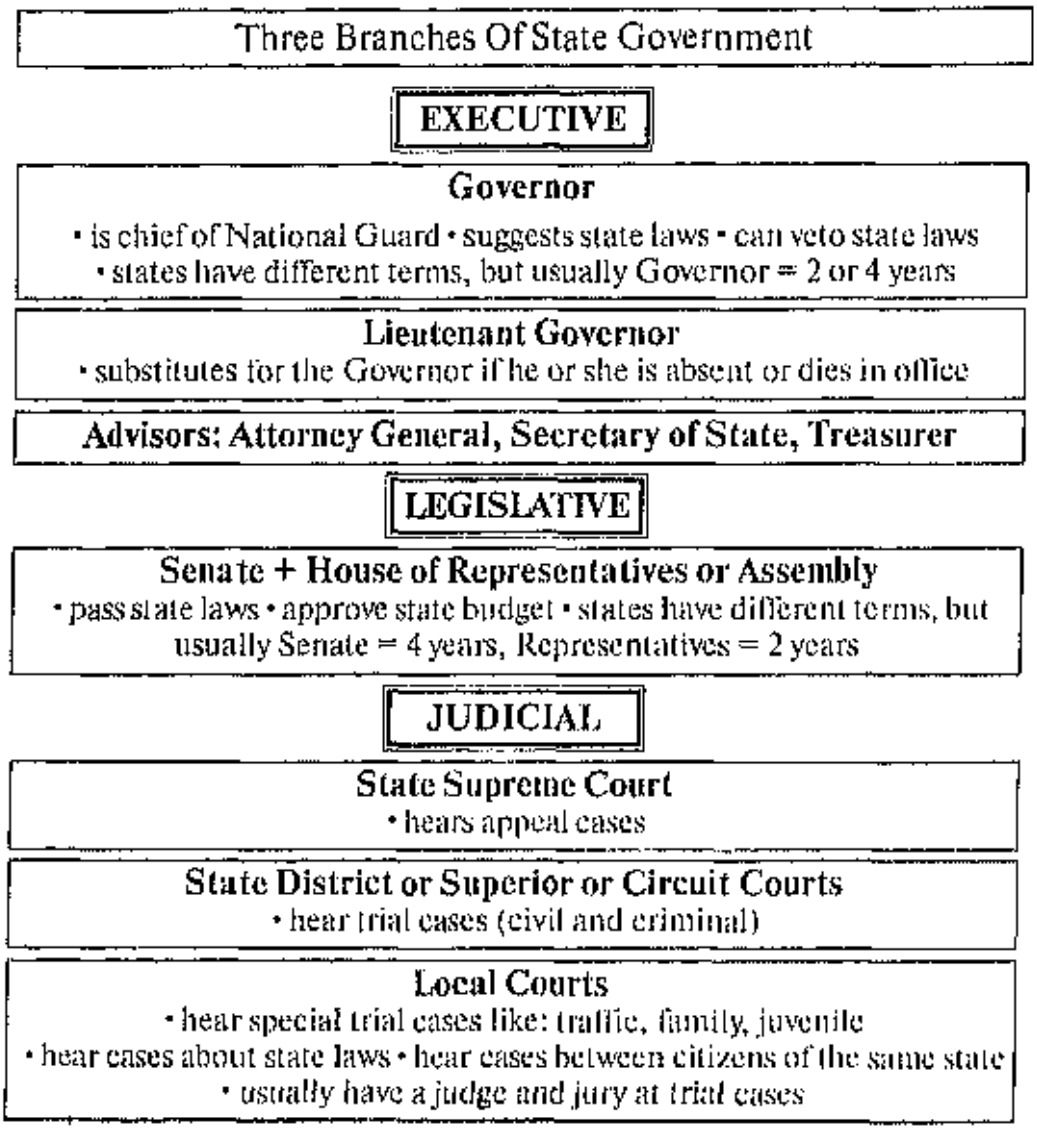


Ex. 9. Прочитайте предложения и укажите, которые из них соответствуют действительности.

The President...
1. makes plans for foreign policy
2. appoints people to the Supreme Court
3. writes taxes for states
4. votes in the Senate
5. sends soldiers to war.

Ex. 10. Расскажите о:
1. the President of the USA
2. the Congress
3. the Supreme Court.

Ex. 11. Изучите схему организации правительства штата. При необходимости пользуйтесь словарем.



Ex. 12. Пользуясь известной информацией, выберите правильный ответ.

	Yes	No
1. Do state governments have three branches of government?	☐	☐
2. Does the head of a state have advisors?	☐	☐
3. Are the Circuit Courts of Appeals part of the state court system?	☐	☐
4. Do most states have two houses in the legislature?	☐	☐
5. Can a state court hear cases about federal laws?	☐	☐

Ex. 13. Переведите письменно.

Правительство штата имеет почти такую же организацию (pattern), как и Федеральное правительство. Каждый штат имеет свою Конституцию, за исключением штата Небраска (Nebraska). Штат принимает свои законы, но они не должны

противоречить Конституции государства. Штаты имеют свою полицию и судебную систему.

Штат подразделяется на отдельные территории, которые называются округами и которые имеют местное самоуправление (local governments).

Ex. 14. Прочитайте текст без словаря и расскажите по-русски его содержание.

Text 2

TYPES OF LOCAL GOVERNMENT

Local governments are different from state and federal governments because they do not have constitutions. Local governments receive a charter (a plan of government) from the state government. There are different types of local governments : city, county, town and village. The local charter tells us about the organization of the government.

One of the most important functions or duties of local government is the provision of public schools. People often want to take part in making decisions about the schools because they want their children to get a good education. There are special school boards where parents are the members. The school board makes decisions about teacher's salaries, the curriculum and other administrative aspects. They give their opinions about what needs to be done at school.

Local governments have a court system which considers local problems, such as traffic laws and small disputes. Sometimes cases may be appealed to the state courts. Judges in local courts are sometimes called justices of peace or judge and magistrate. Local courts usually specialize in one area of law, for ex, family law, to be sure that a judge is very competent on the subject. Local courts provide efficient legal service.

Ex. 15. Прочитайте и переведите.

Local Services

Name	Responsibilities
Water Department	• makes sure drinking water is safe
Roads/Highway Department	• repairs local roads, signs, and bridges
Board of Education	• hires teachers, decides salaries, curriculum, funding
Clerk's Office	• keeps records (marriage licences, birth certificates)
Sanitation Department	• collects trash, keeps area clean
Fire & Rescue Department	• stops fires, saves people, in emergencies
Police Department	• protects people, makes sure laws are not broken
Treasury or Tax Department	• collects money to provide for services and programs
Courthouse	• hears cases about local laws, family problems, traffic laws

Ex. 16. Пользуясь информацией текста, а также схемой, расскажите о деятельности органов местного самоуправления

Переведите письменно со словарем:

Federalism: State and Local Governments

The fifty states are quite different in size, population, climate, economy, history, and interests. The fifty state governments often differ from one another too. Because they often approach political, social, or economic questions differently, the states have been called "laboratories of democracy". However, they share certain basic structures. The individual states all have republican forms of government with a senate and a house. All have executive branches headed by state governors and independent court systems. Each state also has its own constitution. But all must respect the federal laws and not make laws that contradict those of the other states. Likewise, cities and local authorities must make their laws and regulations so that they fit their own state's constitution.

The Constitution limits the federal government to specific powers, but modern judicial interpretations of the Constitution have expanded federal responsibilities. There has always been a battle between federal and state's rights. The traditional American district of a too powerful central government has kept the battle going over the years. The states and local communities in the US have rights that in other countries generally belong to the central government.

Ex. 17. Прочитайте текст и найдите ответы на следующие вопросы.

1. What kind of a person may be elected a senator?
2. Who are the presiding officers of the Senate and the House of Representatives?
3. What body is the head of the judicial branch of the government?

Text 3

US POLITICAL SYSTEM

The USA is a presidential republic. Supreme legislative power lies with Congress which consists of a Senate or upper House and a House of Representatives. The Senate **is composed** of 100 members, 2 from each state who are elected for a term of 6 years. One-third of the Senate is elected every 2 years. The House of Representatives has representatives from each state depending on population, but every state **no matter how** small it is, has at least one representative in the chamber.

Both Senators and Representatives must be residents of the State from which they were chosen. In addition, a Senator must be at least 30 years old

and a citizen of the USA for at least 9 years. A Representative accordingly – 25 years and 7 years.

The **presiding officer** of the Senate is the Vice-President of the USA. The presiding officer of the House of Representatives, the Speaker, is elected by the house. The work of preparing and considering laws is done by the committees of both Houses. There are 15 **standing committees** in the Senate and 19 in the House of Representatives.

The Congress assembles at least once a year.

The executive branch of the government consists of the President, the Vice-President and the Cabinet. The President's term of office is four years, together with the Vice-President, chosen for the same term. The President is the head of the executive branch of the government; he appoints the members of the Cabinet. The Cabinet **advises** the President on many matters and is composed of the heads of ten executive departments: **Secretary of State, Secretary of the Treasury, Secretary of Defence** and others. committees of both Houses. There are 15 standing committees in the Senate and 19 in the House of Representatives.

The Congress assembles at least once a year.

The judicial branch of the government is headed by the Supreme Court which **settles disputes** between the states. The Supreme Court may veto any law passed by the Congress if it **contradicts** the Constitution of the USA.

The United States is a federal Union, and the President is the head of the Federal government which deals with international problems and national matters. But every state has its own constitution and the state government headed by the Governor **managing its local affairs**. Their laws and decisions must not contradict the Constitution of the USA.

Vocabulary Notes

to be composed – состоять
no matter how... – как бы... не
the presiding officer – председатель (чего-л.)
a standing committee – постоянно действующий комитет
to advise – давать рекомендации
Secretary of State – государственный секретарь
Secretary of the Treasury – министр финансов
Secretary of Defence – министр обороны
to settle disputes – решать спорные вопросы
to contradict – противоречить
to manage local affairs – заниматься, решать вопросы местного значения

Ex. 18. Переведите на русский язык схему работы Кабинета.

The Cabinet

STATE • foreign police • treaties	TREASURY • tax collection • money	DEFENCE • military advice • Army, Navy, Air Force
VETERAN AFFAIRS • financial aid • VA hospitals	JUSTICE • legal advice	INTERIOR • National Parks • American Indians
AGRICULTURE • farming • food inspection	COMMERCE • business • trade	LABOR • rights of workers • job training
HEALTH & HUMAN SERVICES • health services • social security		HOUSING & URBAN DEVELOPMENT • housing • city planning
TRANSPORTATION • travel safety • road, air, and train travel	EDUCATION • schools • financial aid	ENERGY • energy research • energy conservation

Ex. 19. Соотнесите комиссию Кабинета (левая колонка) с описанием ее обязанностей (правая колонка).

1. Education	a. takes tax money from our paychecks
2. Health & Human Services	b. helps train people for employment
3. Treasury	c. plans for special classes
4. Justice	

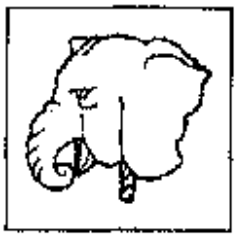
Ex. 20. Прочитайте текст без словаря.

Text 4



The Democratic Party is the oldest party in the United States. In 1829, Andrew Jackson became the first Democratic President. Since that time, the issues of the nation and the ideas of the party have changed. Both the major parties have liberal and conservative members but in general people consider the Democrats today more liberal than the Republicans. Democrats often want the government to establish social programs for people in need, such as the poor, the unemployed, and the elderly. They usually say they believe in equal rights for women and minorities and they oppose **nuclear weapon** and too much military spending. The symbol of the Democratic Party is the donkey.

The Republican Party, sometimes called the G.O.P. (the Grand Old Party), began in 1854 over the issue of **slavery**. Republicans oppose slavery. The first Republican candidate to become President was



Abraham Lincoln. After the Civil War, Republicans got interested in farm, land, and business issues. In general, Republicans vote more conservatively than Democrats. They want government to support big business but not to control the lives of citizens. They often oppose government spending for social programs but support military spending. The party symbol is the elephant.

Vocabulary Notes

nuclear weapon – ядерное оружие
slavery – рабство

Ex. 21. Скажите, о какой партии идет речь в каждом предложении.

1. It is the oldest political party in the United States.
2. It is sometimes called the G.O.P.
3. Its first President was Abraham Lincoln.
4. Its first President was Andrew Jackson.
5. It is generally more liberal than the other party.
6. Its members usually prefer to spend tax money for military purposes rather than for social programs.
7. Its members do not want the government to control the lives of individuals.
8. The party symbol is the donkey.

Ex. 22. Переведите письменно со словарем.

Political Parties

The U.S.Constitution does not talk about political parties, but they began during George Washington's term of office. On one side were the Federalists. They wanted a strong federal government. On the other side, the Democratic-Republicans wanted to limit the power of the national government. Their leader was Thomas Jefferson, and their group later became the Democratic Party.

Some of the early political parties, such as the Federalists and the Whigs, no longer exist. Since 1854, the two major parties have been the Democrats and the Republicans. Smaller parties have lasted for only a short time. "Third parties" have won in local elections, but their candidates have never won a Presidential election.

Many people say that there is not much difference between the Republican and Democratic Parties. "Liberal" politicians usually favor reform (change) and progress. "Conservative" politicians usually oppose change. But both liberal and conservative members belong to the two major political parties, and their ideas often change with the times and the issues.

Unit Two

Text 1

US CONSTITUTION

The form of the US government is based on the Constitution of 1787 which was **adopted** after the War of Independence. A constitution is a set of customs, traditions, rules and laws that sets forth the basic way a government is organized and functions. According to this **definition** of the word, every nation has a constitution but in some countries constitutions are very easily **violated** because the **basic rights** of their citizens are violated.

It is very important to understand that having a constitution does not mean that a nation has a constitutional government. If a constitution makes it possible to concentrate power by one or few, it is not the basis of a constitutional government. If a constitution says that the government's power should be limited but doesn't mention the ways how to do it, it is not the basis for a constitutional government.

In a constitutional government the constitution is a form of higher law that must be **obeyed** by everyone including those in power.

The US Constitution consists of 7 articles and 26 **amendments**.

According to the Founders of the American state a constitution or higher law should have the following characteristics:

- It **sets forth** the basic rights of citizens to life, liberty, and property
- It **establishes** the responsibility of the government to protect those rights.
- It **establishes** limitations on how those in government may use their powers with regard to
  - citizens' rights and responsibilities
  - the distribution of resources
  - the control of conflict
- It establishes the principle of a **private domain** – which means that there are areas of citizens' lives that are no business of the government and in which the government cannot **interfere**.
- It can be changed with the consent of the most citizens. This is how the Constitution differ from the ordinary law that governments regularly create and enforce. The US Constitution has 26 amendments, the first 10 are called the Bill of Rights and it was adopted in 1791. The Bill enumerated basic freedoms and guaranteed them and declared what the government was not allowed to do.

Vocabulary Notes

to adopt – *принимать*
definition – определение

to violate – нарушать
basic freedoms, rights – основные свободы, права
to obey – повиноваться, выполнять
to make amendments – вносить поправки
to set forth – излагать
to establish – устанавливать
private domain – личная жизнь
to interfere – вмешиваться

Ex. 2. Приведите русские слова с таким же корнем.

base; constitution; regulation; political; standards; to form; satisfaction; guarantee; to consolidate; revolution; to control; oligarchy.

Ex. 3. Найдите в тексте английские эквиваленты следующих слов и выражений.

свод законов, правил, традиций; принять конституцию; двадцать шесть поправок к Конституции; нарушать Билль о правах; согласие большинства;перечислять; гарантировать; высший закон, который все должны исполнять.

Ex. 4. Выразите согласие/несогласие со следующими утверждениями, используя выражения типа: **I quite/completely/agree, I can't agree, I think it is not so, it/s wrong, on the contrary.**

1. The American Constitution was adopted after the War of Independence and it remains unchanged so far.
2. The US Constitution consists of 10 articles and 50 amendments.
3. The US Constitution guarantees freedom of enterprise.

Ex. 5. **A.** Переведите на русский язык.

1. freedoms proclaimed by the Constitution; constitution proclaiming freedoms
2. the judicial practice violating the Bill of Rights; the Bill of Rights violated by the judicial practice

B. Переведите на английский язык.

1. конституция, гарантирующая свободу предпринимательству; права, гарантируемые конституцией
2. нормы, регулирующие работу правительства; работа правительства, регулируемая нормами

3. олигархи, контролирующие работу правительства; правительство, контролируемое олигархами

Ex. 6. Поменяйте активный залог на пассивный и переведите предложения на русский язык.

1. The USA **adopted** the Constitution **in** 1787.
2. The Constitution **provides** the set of rules, laws and regulations to regulate the work of the government.
3. Some historians **regard** the Constitution as a conservative document.
4. In some countries the oligarchy **can control** the government.

Ex. 7. Прочитайте текст без словаря и расскажите по-английски как принимаются поправки к Конституции.

The Amendment Process

We have a *living* Constitution. Men wrote it in 1787, and we still use it today. These men were intelligent. "The U.S. will change in the future" they thought. "We must find a way to let the Constitution change too." And they did.

They put in the amendment process. This process is important. Amendment can change part of an article in the Constitution or another amendment.

Two-thirds (2/3) of the Congress or of the state legislature must agree on an idea for an amendment. If three-fourth (3/4) of the states ratify the amendment, it becomes part of the Constitution.

Ex. 8. Ответьте на вопросы.

1. What does a "constitution" mean in American political language?
2. What is the aim of the US Constitution?
3. What does it consist of?
4. What is the Bill of Rights?
5. What do you think about the peculiarities of the US Constitution?

Ex. 9. Прочитайте и переведите текст.

Text 2

ELECTIONS

Anyone who is an American citizen, at least 18 years of age, and is **registered to vote** may vote. Each state has the right to determine registration **procedures**. A number of civic groups, such as the League of Women Voters, are actively trying to register as many people as possible. Voter registration and voting among **minorities** has **dramatically** increased during the last twenty years, especially as a result of the Civil Rights Movement.

There is some concern, however, about the number of citizens who could vote in national elections but do not. In the national election of 1984, for instance, only 57.4 per cent of all those who could have voted actually did. In 1992 it was 61.3. But then, Americans who want to vote must register, **that is** put down their names in register before the actual elections take place. There are 50 different registration laws in the US – one set for each state. In the South, voters often have to register not only locally but also at the **county** seat. In European countries, on the other hand, "permanent registration" of voters is most common. Of those voters in the United States who did register in the 1988 Presidential elections, 86 per cent **cast** their **ballots**, in 1992 – 89.8 per cent.

The National Presidential elections consists of two separate campaigns. One is for the **nomination** of candidates at national party convention, the other is to win the actual election. The first stage is called "primaries". The party convention votes to select the party's official candidate for the presidency. Then starts Presidential campaigns by the candidates. At last in November, the voters go to the polls.

Vocabulary Notes

to register to vote – зарегистрироваться для голосования
procedure – процедура
minority – меньшинство (*зд.* национальное)
dramatically – значительно
that is – т.е.
to set a law – создать закон
county – избирательный округ
to cast a ballot – проголосовать
nomination – выдвижение кандитата

Ex. 10. Найдите в тексте эквиваленты следующих слов и выражений.

голосовать; процедура; избиратели; партийный съезд

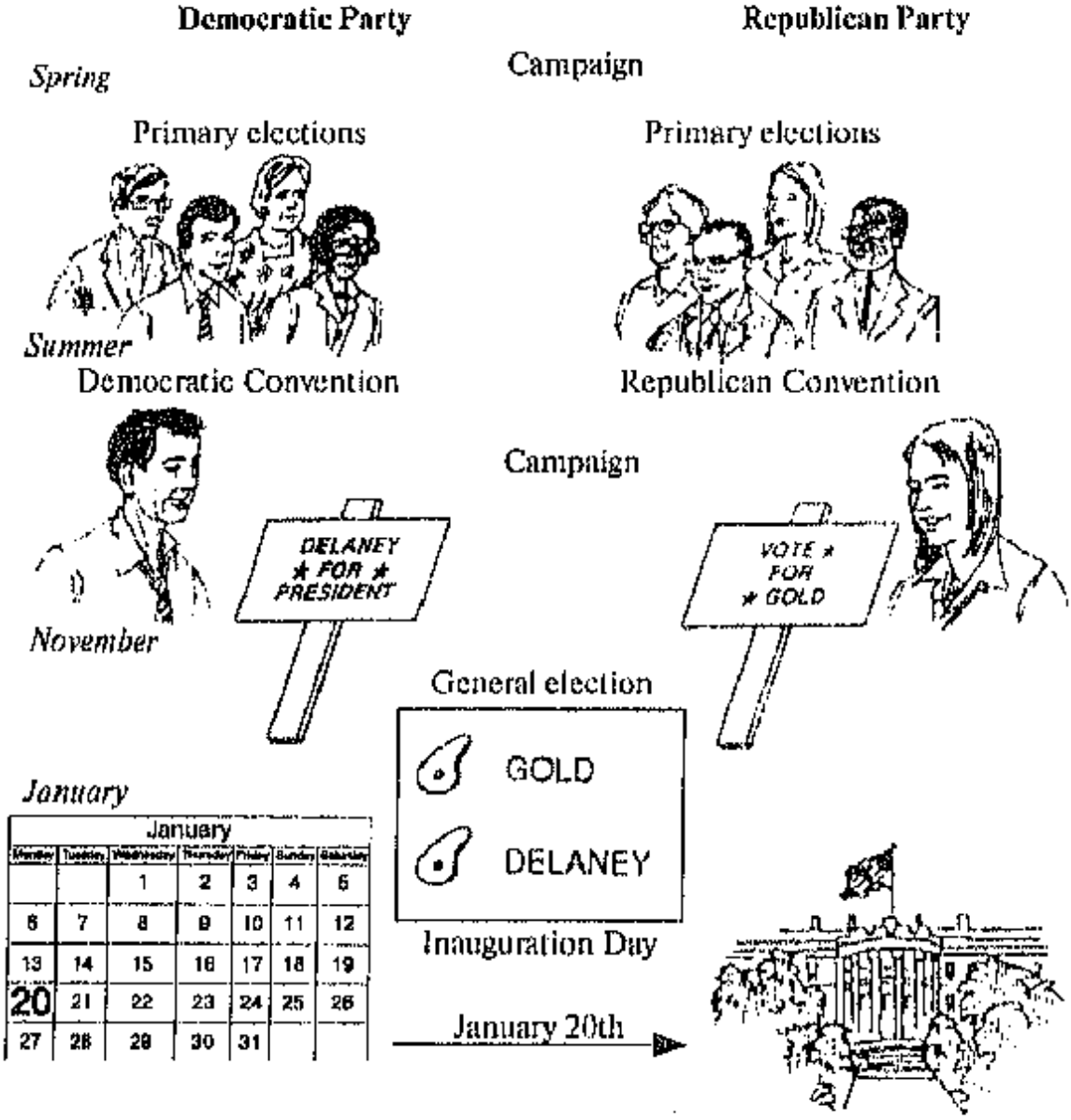
Ex. 11. Просмотрите упомянутые в тексте цифры и проверьте, правильно ли они объяснены в упражнении; при необходимости дайте правильный вариант

1. American citizens under 18 may vote.
2. In 1988, at the Presidential elections, only 86 per cent of the registered voters took part in the elections.
3. There are 40 registration laws in the USA which are obligatory for the country.
4. In 1990 only 50 per cent cast their ballots.

Ex. 12. **A.** Изучите схему, представляющую порядок проведения выборов в США. Проверьте термины по словарю.

B. Расположите предложения, описывающие порядок проведения выборов, в логической последовательности.

1. U.S. adult citizens vote for a President in a national election.
2. At first, there are two or more candidates for the Republican Party and two or more candidates for the Democratic Party.
3. After the party conventions, the candidates continue to campaign.
4. The inauguration of the President is on January 20th.
5. In the summer, each party has a convention to choose one candidate.



Ex. 13. Перестройте предложения так, чтобы получился краткий пересказ Текста 2.

1. Americans who want to vote must put down their names in a register before the election.
2. Each state can determine its own registration procedure.
3. Any American citizen, over 18 years of age has the rights to vote.
4. There is always a number of citizens who can vote but don't.
5. There is a different registration law for each state.

Ex. 14. Прочитайте текст без словаря и расскажите его содержание по-русски.

The Electoral College (Коллегия выборщиков)

When the citizens vote for the President, they are really voting for state electiors. These electors form the Electoral College. Every state has electors. The number of electors equals the number of senators and the number of trepresentatives in a state. For example, Alaska has two senators and one representatives. So, Florida has 21 electors.

This is what happens:

1. Citizens of a state vote.
2. Their votes are counted.
3. One candidate has 51% or more of the votes.
4. This candidate wins all the electoral votes of that state.
5. The electoral votes of all the states are counted.
6. The candidate with the most electoral votes becomes the President.

Ex. 15. Расскажите по-английски, как проходят выборы в России. Используйте данные вопросы.

1. How many political parties are there in Russia?
2. Who can vote in this country?
3. How do people vote in this country?
4. How often do we have elections?
5. Does the law say, "All adult citizens must vote"?
6. Is there a fine or punishment if you do not vote?
7. Is the election process in Russia the same as in the USA?
8. What election process is more democratic? Give your reasons.

Ex. 16. Вспомните или выучите следующие слова и выражения.

the system of checks and balances – система сдержек и противовесов

to favour – *зд.* поддерживать

extremes – крайности

in comparison with – по сравнению с
powers, separation of powers – полномочия, разделение полномочий
to request – требовать
to reject – отклонять
to approve – одобрять
to make laws – создавать законы

Ex. 17. A. Прочитайте текст без словаря.

Text 3

CHECKS AND BALANCES

The U.S. Constitution establishes three branches for the federal government: executive, legislative, and judicial. The three branches work together to help the country. Each branch has its own responsibilities and powers. No branch has more power than the other branches. They have balanced powers. Each branch has separate duties to check the powers of the other branches.

When a new state – the USA – was born, the Founders of the state thought that if there was no balance of power among different branches of a government it would lead to tyranny. The problem was how to create a system of government with balanced powers. That's why James Madison (1751–1836) favoured the constitution that limited government by means of

a) separation of powers

b) a system of checks and balances, where checks – limitation of the duties of each branch, and balances – separate powers to each branch

Congress has the power to make laws, but the President may veto any act of Congress. Congress, in its turn, can pass a law over a veto by a two-thirds vote in each house. Congress can also refuse to provide funds requested by the President. The President can appoint important officials of his administration, but they must be approved by the Senate. The President also has the power to name all federal judges: they, too must be approved by the Senate.

The system of checks and balances makes compromise and consensus necessary. This system protects against extremes. It means, for example, that new presidents cannot radically change governmental policies just as they wish. In the US, therefore, when people think of "the government", they usually mean the whole system, that is, the Executive Branch and the President, Congress, and the courts.

In fact and in practice, therefore, the President (i.e. "the Administration") is not as powerful as many people think he is. In comparison with other leaders in systems where the majority party forms "the government", he is even less powerful.

B. Выберите правильный ответ.

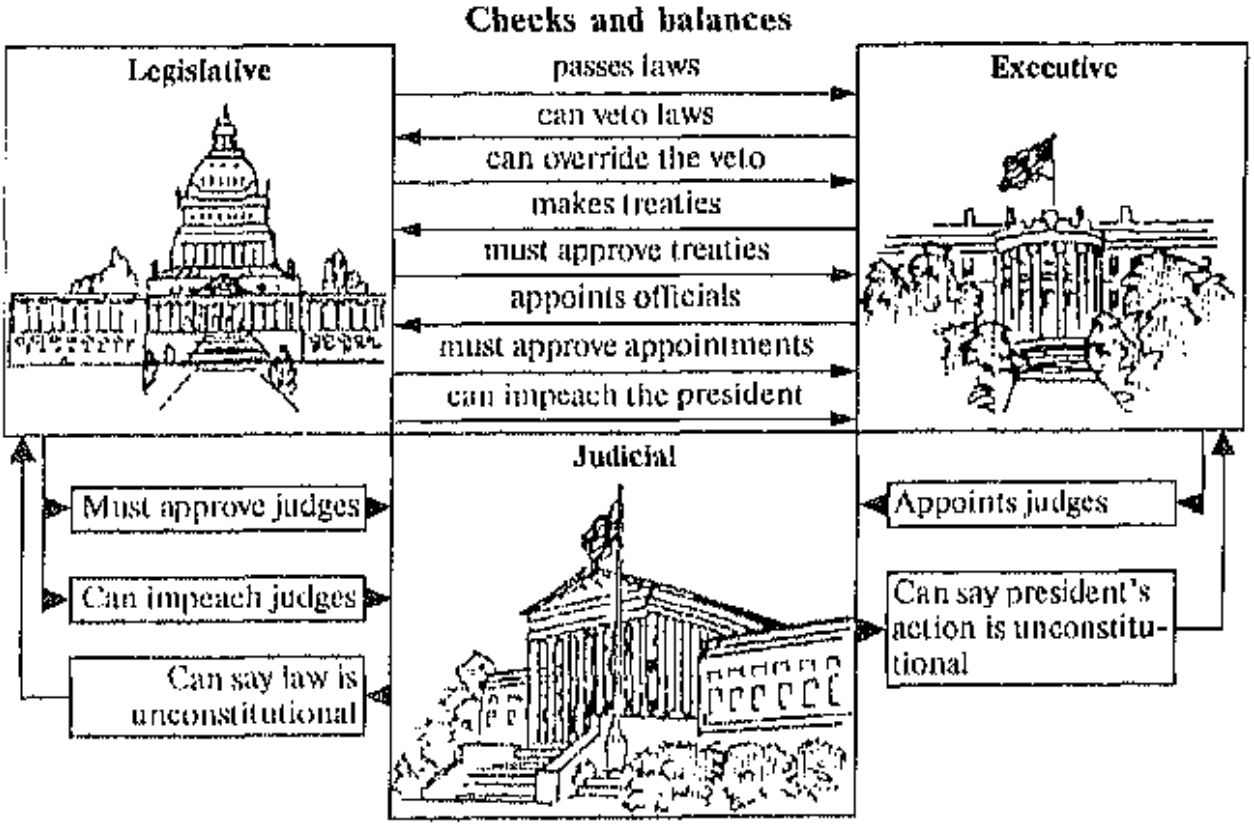
1. Why is the system of checks and balances necessary?
   a) because it separates the executive, legislature and judicial branches of government
   b) because it keeps any branch from using too much power or misusing it and makes each branch check on the others
   c) because it limits the President's powers.
2. What is the role of compromise in the American system of running a country?
   a) it helps the Congress to pass a law
   b) it protects against extreme in government policies
   c) it helps the President to veto any act of Congress

Ex. 18. Прочитайте текст еще раз со словарем и выделите предложения, которые непосредственно раскрывают смысл заглавия текста.

Ex. 19. Объясните по-английски:

1. unconstitutional law
2. a rejected law
3. a law passed over the President's veto

Ex. 20. Используя данную схему, расскажите о системе сдержек и противовесов.



Ex. 21. Прочитайте текст без словаря.

Text 4

THE SEPARATION OF POWERS IN STATE GOVERNMENT

State governments are similar in structure to each other and to the federal government. Under the principle of the separation of powers, the government of each state has three branches – the legislative, the executive, and the judicial. In the system of checks and balances, each branch has some control over other two branches.

The governor may veto bills from the legislature (the senate and the house or assembly), in some states, the governor uses a **"line-item veto"**. This way, he or she does not have to reject an entire law in order to veto parts of it. The governor also appoints judges in the judicial branch. With enough votes in both houses, the legislature can override the governor's veto.

Like the federal courts, state courts also explain and interpret laws. They can declare state laws unconstitutional (contradictory to the state constitution).

State government includes a system of direct democracy. Through the initiative process, citizens may put proposed laws on the ballot for the people to vote on. They may decide on proposed constitutional amendments or important state issues in a referendum. Through a recall, they can sometimes **remove** an elected government official from office.

The federal government also has power over state governments. For example, a state constitution or court may not **contradict** the U.S. Constitution, and the U.S.Supreme Court may **overrule** the decision of a state supreme court. Also, the U.S.President may withhold money from a state if the state refuses to **obey** federal laws.

Vocabulary Notes

line-item veto – вето, наложенное на статью закона
to remove – отозвать
to contradict – противоречить
to overrule – отменять
to obey – исполнять

Ex. 22. Исправьте неправильные утверждения в соответствии с содержанием текста не менее, чем двумя предложениями.

1. All state governments are similar to one another, but they differ in structure from the federal government.
2. The principles of the separation of powers and checks and balances apply to state as well as the federal government.

3. In a "line-item veto", the governor can reject parts of initiatives, referendums, or recalls.
4. Citizens may propose law, vote on constitutional amendments, and recall elected officials in the federal system of direct democracy but not in a state system.
5. The U.S. Supreme Court and the U.S. President have some direct power over state governments.

Ex. 23. Переведите на английский язык письменно.

Конституция США предусматривает (provides) разделение полномочий между исполнительной властью (президент), законодательной (Конгресс) и судебной (Верховный Суд). Они являются отдельными органами власти. Но каждый из них контролирует (controls) работу другого при помощи системы сдержек и противовесов. Эта система является очень важным принципом Конституции США.

Unit Three

Text 1

LAW MAKING PROCESS IN THE USA

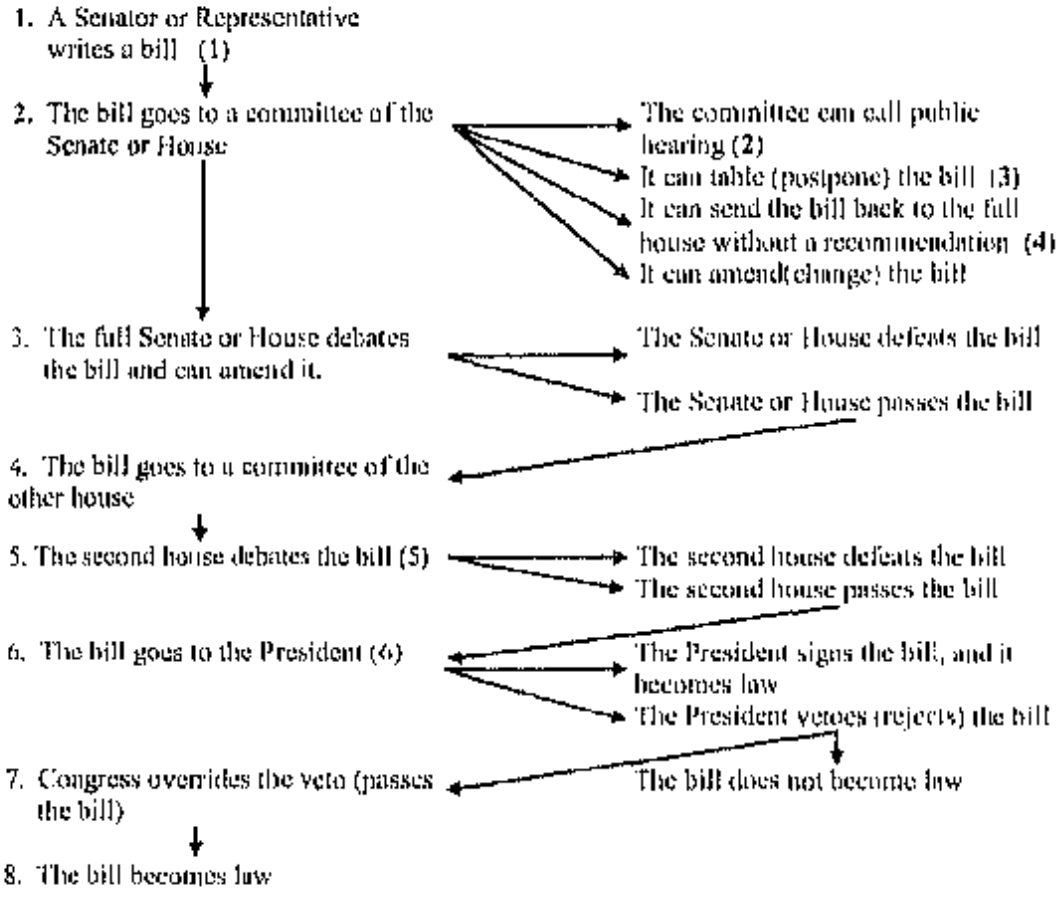
Ex. 1. Вспомните или выучите следующие слова и выражения.

to initiate legislation – выступить с законодательной инициативой
to introduce a bill – внести законопроект
a standing committee – постоянно действующий комитет
hearing – слушание
to postpone – откладывать
to override the veto – преодолеть вето
a tax – налог
to adjourn – *зд.* откладывать рассмотрение

Ex. 2. Изучите схему и комментарий к ней и, пользуясь словами из Ex. 1, расскажите, как законопроект становится законом.

US Congress is the lawmaking body of the federal government. Any congressman may initiate new legislation

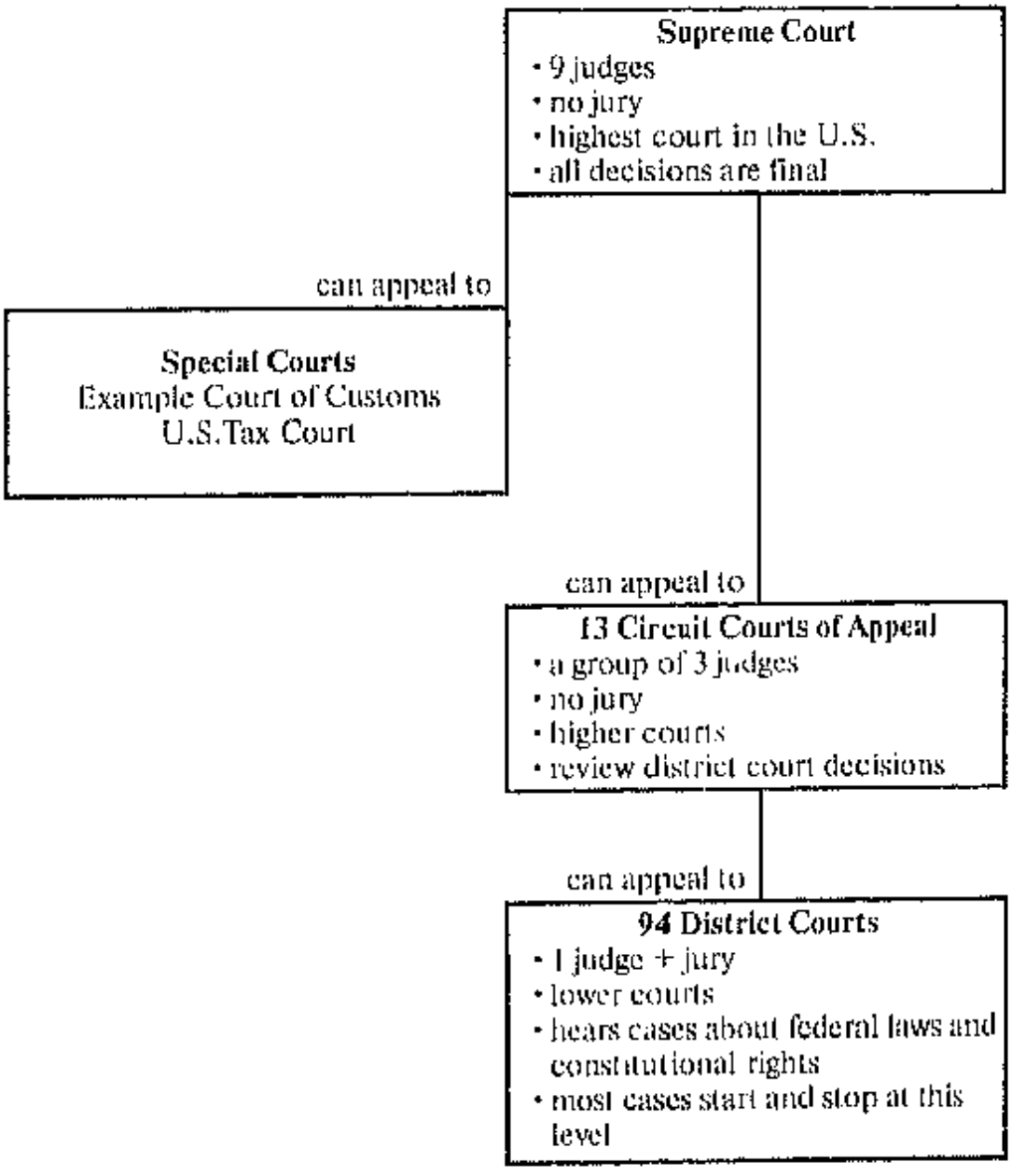
How Congress Makes Laws



(1) A bill concerning taxes or the budget must begin in the House of Representatives
(2) There are some standing committees in the Houses of Congress.
(3) If a committee tables a bill, Senators or Representatives can force it out of committee with a majority vote.
(4) This step often "kills" the bill.
(5) If the second house of Congress amends the bill, the first house must agree to the changes.
(6) If the President does nothing and Congress adjourns within ten days, the bill does not become law.

Ex. 3. Пользуясь юридическим словарем, найдите русские эквиваленты терминов на схеме.

The Federal Court System



Ex. 4. Прочитайте и переведите текст.

Supreme Court Justices

There are nine Supreme Court Justices. Supreme Court justices have an important job. Justicies hear cases about constitutional rights. Their decisions can effect all U.S. citizens. One of the nine justicies is Chief Justice.

The President appoints someone to be a justice. The Senate must approve the President's choice. Supreme Court justices have the position until they die or retire. If justices do something wrong, the Congress can impeach them. But this does not happen often.

Ex. 5. Используя схему, сделайте сообщение по-английски на тему "Federal Court system in the USA".

Ex. 6. Прочитайте и переведите текст.

Text 2

Provisions of the Sixth Amendment protect the rights of people who **committed a crime** and **put on a trial**.

These provisions are the following:

• ***Speedy trial.*** The federal government cannot hold you in **jail** for a long period of time without bringing you to trial if you demand that the trial be held as soon as possible.

• ***Public trial.*** The government cannot try you in secret. Your trial must be open to the public and there must be a public **record of the proceedings**.

• ***Impartial jury.*** The government must try you before a jury. It cannot try you before a jury that is prejudiced. For example, if you were on trial for drug crime and jurors admitted to having angry and violent reactions because they had been **victims** of similar crimes, the jury could not be impartial.

• ***Location of the trial.*** The government must try you in the state, district or community where the crime was committed. You may, however, have the right to have the trial moved, if you can show that the community is prejudiced.

• ***Information on charges.*** The government cannot arrest you and hold you for trial without telling you why it is doing so. Government lawyers also must present in open court enough evidence to justify holding you for trial.

• ***Confronting witnesses.*** You and your lawyer have the right to confront and cross-examine all witnesses against you. The government cannot present the **testimony** of secret witnesses who do not appear in court against you.

• ***Favorable witnesses.*** The government cannot prevent you from presenting witnesses who might **testify** for you. In fact, if such witnesses do not want to testify and you want them to, the court must force them to appear.

• ***Assistance of counsel.*** The government cannot prevent you from having a lawyer defend you from the time you are named as a **suspect**.

If you are charged with a serious crime and cannot **afford** a lawyer, the government must provide one **free of charge**.

Vocabulary Notes

provisions – положение
to commit a crime – совершить преступление
to put on a trial – предать суду
jail – тюрьма
record of the proceedings – материалы дела
impartial – беспристрастный, объективный
victim – жертва
testimony – свидетельство
to testify – свидетельствовать
assistance of counsel – защитник
suspect – подозреваемый
to afford – позволить себе
free of charge – бесплатно

Ex. 7. Выберите из текста все слова и выражения, которые, по вашему мнению, являются юридическими терминами.

Ex. 8. Объясните по-английски, в какой связи упомянуты в тексте следующие выражения.

1. ... record of the proceedings
2. ... witnesses who may testify for you
3. ... evidence to justify holding you for trial
4. ... a prejudiced jury.

Ex. 9. Прочитайте текст А и выявите информацию: а) о делах, находящихся в сфере юрисдикции ФБР; в) об истории ФБР.

Text 3

A. Federal Bureau of Investigation, the investigative division of the U.S.Department of Justice. Since 1934 the FBI has had general charge of investigating **violations of federal laws.**

The bureau was established in 1908 by Attorney General Charles Joseph Bonaparte in response to President Theodore Roosevelt's need for an investigative agency to handle "land thieves" in the West and big business "trusts" in the East. The agency began as a small group of investigators in the Department of Justice.

In 1924, when the Attorney General Harlan Fiske Stone appointed the 29-year-old J.Edgar Hoover as director of the bureau, a major **advance** began. Hoover instituted an immediate reorganization, **setting** new **standards** of qualifications for appointment as special agent and a system of specialized training for all personnel.

Under Director Hoover's leadership, by the end of the 1960's, the FBI, with headquarters in Washington, D.C., had **field offices** in 59 major cities and 526 resident offices serving 50 states and the Commonwealth of Puerto Rico. There were offices in 11 major foreign cities. The investigative work was perfomed by more than 16,000 employees: 7,200 special agents and 9,100 clerical, stenographic, and technical personnel.

The FBI investigates some 170 different matters, the more important of which are espionage, sabotage, **treason**, violation of the Atomic Energy Act of 1946, and other activities affecting internal security; kidnapping, **extortion**, bank robbery, burglary, and **larceny** in federal institutions; bribery, interstate transportation of stolen motor vehicles, aircraft, or property; interstate travel for racketeering purposes; interstate traffic affecting civil rights; **fraud** against the government or **thefts** on government property; crimes aboard aircraft; crimes on government or Indian reservations; and assaulting or killing the president or any other federal results of FBI investigations are reported to the U.S. attorney general, whose office has the responsibility for deciding whether to **prosecute** and for **conducting** such prosecution.

Vocabulary Notes

violation of federal law – нарушение федеральных законов
advance – *зд.* прогресс, развитие
to set standards – устанавливать стандарты
field officer – сотрудник, курирующий определенный регион
treason – измена родине
extortion – вымогательство
larceny – хищение
fraud – мошенничество
theft – кража, расхищение
to prosecute – преследовать в судебном порядке
to conduct – проводить (расследование)

Ex. 10. Прочитайте и переведите со словарем текст.

B. There are three basic components providing the effective work of the Bureau. They are Identification Division, the FBI Laboratory, Training Division.

Identification Division. In 1924 the Identification Division of the FBI was established by act of Congress. More than 800,000 **fingerprints** were forwarded to it from the Bureau of Criminal Identification (established at Chicago by the International Association of Chiefs of Police), to form the present collection, which in 1969 numbered 191 million, representing more than 83 million persons.

The value of these records, the world's largest fingerprint repository, is incalculable, for fingerprints offer the best means of positive personal identification. Approximately 29,000 fingerprint cards are received each workday for processing.

Laboratory Division. The FBI Laboratory is the greatest criminological laboratory in the world. During the first 35 years of its existence, this laboratory made approximately 4,000,000 scientific examinations. Today, this laboratory is a large complex of scientific equipment and highly qualified specialists.

There are over 100 Special Agents with specialized training in different scientific fields. Many **crimes are solved** with the help of laboratory examination. In many cases laboratory examinations proved **innocence** of the **suspect.**

Trained Special Agent. The third basic component in the daily operations of the FBI is the trained special agent. The bureau selects candidates for agent with care. Any U.S.citizens, age 23 to 34, who is a graduate of a law school, or who is a graduate of a resident four-year college dealing with **accounting** or physical science, or who is fluent in a language for which the bureau has a need, or who has three years of other specialized experience, **is eligible.** A lawyer has the analytical **approach** and logical method important for the investigation of criminal cases. The accountants are invaluable also, for much of the bureau's work is connected with business operations.

These highly educated agents first have **initial training** — they work with older and more experienced agents. For all the agents there are special **refreshing courses** and special programs, so constant training is held periodically.

Special Investigation Division. Organized crime is a lawless empire making money from gambling, narcotics, prostitution, extortion, etc. For years organized crime operated behind a impenetrable wall built on fear, bribery, and force.

FBI officers are doing their best to find criminals and to bring them to court. Their aim is to collect evidence for it. Cooperation is very important in the fight against organized crime.

FBI officers work in close cooperation with state and local agencies.

This division also tries to locate escaped prisoners or deserters from the Armed Forces.

Vocabulary Notes

fingerprints — отпечатки пальцев
innocence — невиновность
the suspect — подозреваемый
accounting — бухгалтерский учет
to be eligible — *зд.* иметь право, отвечать требованиям
an approach — подход
initial training — первоначальная подготовка
refreshing courses — курсы повышения квалификации

Ex. 11. Дайте русские эквиваленты следующих интернациональных слов.

a) bureau; criminal; crime; agent; operate; arrest; result; police; contact; agency
b) deserter; identification; collection; cooperation; division; personnel; jurisdiction; espionage; bankruptcy
c) local; criminal; practical; criminological; special
d) organized; specialized; trained

Ex. 12. Объедините однокоренные слова и переведите их на русский язык.

divide, investigation, responsibility, specialist, investigate, crime, collection, locate, bribery, division, criminal, collect, responsible, secure, location, investigated, criminological, special, bribe, security, specialized.

Ex. 13. Найдите в тексте английские эквиваленты следующих слов.

a) нарушение законов; генеральный прокурор; штат сотрудников; подкуп; саботаж; шпионаж; деятельность; безопасность; похищение людей; собственность; преступления на борту авиалайнеров; министерство юстиции.
b) отдел установления личности (опознания); отпечатки пальцев; документы/материалы; обработка (отпечатков); средство; научное исследование; оборудование; бухгалтерский учет; курсы повышения квалификации.

Ex. 14. Для описания ФБР выберите необходимые слова и выражения. Переведите их на русский язык.

identification; to establish; field; jurisdiction; often; (internal) security; robbery; crime; gambling; narcotics; result; investigation; agency; organized crime; to try; empire; fongerprints; criminal case; bribery; to train; to select.

Ex. 15. Выберите слова, являющиеся названиями преступлений, и переведите их на русский язык.

prisoner, bribery, field officer, espionage, innocence, agent, victim, extortion, fraud, laboratory examination, fingerprints, robbery, division, burglary, assaulting, accounting, refreshing, approach.

Ex. 16. Составьте возможные словосочетания и переведите их на русский язык.

1. crime	a. to give
2. prosecution	b. to identify
3. evidence	c. to process
4. organized crime	d. to solve
5. fingerprints	e. to commit
	f. to prove
	g. to conduct
	h. to fight against
	j. to investigate

Ex. 17. Переведите предложения и скажите, какие подразделения ФБР занимаются следующими видами деятельности.

1. It has been particularly helpful in clearing innocent persons by examining the evidence.
2. The secret crime organization La Cosa Nostra was identified and investigated.
3. There is a special Training Division in Washington, D.C. and in FBI Academy in Virginia.
4. Teletype network provides contacts between divisions.
5. The personnel of this Department studies carefully the information on crime provided by the FBI's field officers, local police agencies and other sources.
6. A criminal wanted in one state may be found by fingerprint identification by a police agency in another state, even if he is under a different name.

Ex. 18. Назовите по-русски следующие виды деятельности в юрисдикции ФБР.

1. anti-racketeering
2. atomic energy act
3. bank robbery
5. bribery
6. espionage

7. extortion
8. fraud against the government
9. internal security
10. theft of property

Ex. 19. Назовите одним словом (см. Ex. 18).

1. Safety, freedom from danger in the country
2. Getting money or property by using violence or threats
3. Giving or taking something to help a positive solution of some problem.

Ex. 20. Ответьте на вопросы.

1. What are the matters within FBI jurisdiction?
2. What are the main divisions of the FBI?
3. What are the functions of the FBI agents?
4. Who helps the FBI officer's work?
5. What do the FBI agents do to develop their professional qualities?

Ex. 21. Переведите письменно со словарем.

Crime Information Center

In January 1967 a new rival to the scientific laboratory and fingerprint identification service provided to all police agencies emerged in the National Crime Information Center. This computerized index of information concerning crime and criminals was installed in the Washington headquarters of the FBI, to complement the metropolitan and statewide electronic systems. The center includes data on stolen automobiles, certain stolen property, and all wanted persons. More than one million active records are on file. Vigorous reasearch continues on the collection and storage of other criminal statistics and crime data. The center's vital information is available almost immediately to any police officer through radio communication and electronic means.

Average citizens are informed of the crime trends in the nation and their own community through the Uniform Crime Reporting Program, which collects, analyzes, and publishes crime figures for the Unites States.

Ex. 22. Пользуясь словами и выражениями из текста, сравните функции Скотланд-Ярда и ФБР.

Supplement

Дополнительные тексты для чтения, обсуждения и письменного перевода

Прочитайте текст со словарем и назовите особенности политической системы Великобритании

Text 1

THE POLITICAL SYSTEM: CONSTITUTIONAL MONARCHY

The United Kingdom of Great Britain and Northern Ireland is a constitutional monarchy. It has either a king or a queen – as its Head of State, but the power of the monarch is limited by the country's constitution. In practice, the monarch reigns but does not rule. The legal authority (the passing of acts) is given to Parliament, and executive authority (the carrying out of laws) to the government. All real power lies with Parliament and the existing government.

The set of rules for governing the country is not contained in any single document. Formed partly by common law and partly by convention, it can be altered by Act of Parliament, or by general agreement to create, vary or abolish a convention. The constitution is thus very flexible and adapts readily to changing political conditions and ideas.

The British form of government, that of a 'Constitutional Monarchy', might seem a puzzling notion to many on discovering that Britain does not actually have a written constitution.

The rules for the country have developed by all the laws and decrees that have been made over the centuries, by the way these laws have been interpreted in the Law Courts in the past and are now reinterpreted from time to time. If there is enough pressure from the public for change, it is comparatively easy to change such a constitution.

Great Britain, which likes to consider itself the pioneer of the modern democratic state, is thoroughly undemocratic in the choice of individual to head that state. Many of the British people still regard the monarchy as a very useful and desirable institution. It is a symbol of national identity; by being above party politics, and not subject to election every five years (as British governments are), it provides the State with a sense of continuity in the country, no matter which political party is in power. The Monarch personifies the State.

Переведите письменно со словарем

Text 2

THE ROLE OF PARLIAMENT

In 1865 John Bright described England as "the mother of Parliaments". Until the late eighteenth century no other country had succeeded in developing such an institution; indeed, many looked to England to learn and, to a certain extent, to copy.

In the nineteenth century Parliament reached maturity with the huge increase in reforming legislation and the fine oratorical skills of many politicians.

Nowadays the main functions of Parliament are to pass laws regulating the life of the country and to scrutinize government policy and administration. Most of this work is carried on through various kinds of debates in both Houses. Also, Parliament is normally consulted before all important international treaties and agreements are ratified.

Прочтите текст со словарем и ответьте на вопросы по-английски.

Text 3

The United Kingdom does not have a single legal system. The law in Scotland was influenced by Roman law and is different from the law of England, Wales and Northern Ireland.

The English legal system is centralised through a court structure which is common to the whole country. The higher courts and judges have more authority than the lower ones. Some important characteristics of English law are:

1. English law is based on the common law tradition. By this we mean a system of 'judge made' law which has developed over the years through the decisions of judges in the cases brought before them. Common law systems are different from the civil law systems of Western Europe and Latin America. In these countries the law has been codified or systematically collected to form a consistent body of legal rules.

2. English judges have an important role in developing case law and stating the meaning of Acts of Parliament.

3. The judges are independent of the government and the people appearing before them.

4. Court procedure is accusatorial (*относящийся к обвинению, обвинительный*). This means that judges do not investigate the cases before them but reach a decision based only on the evidence presented to them by the parties to the dispute.

Answer the questions:

1. Would a codified system of law make the law more certain or flexible (*гибкий*)? Give your reasons.

2. Why is it important for judges to be independent? Give your reasons.

Переведите письменно со словарем.

Text 4

THE LEGAL PROFESSION

A distinctive feature of the legal profession in England and Wales is that it is divided into groups: barristers and solicitors. This division has frequently been the focus of debates and criticism and there have been calls for the fusion of the two branches of the profession.

In the popular mind, the distinction between barristers and solicitors is that the former are concerned with advocacy in court while the latter are concerned with legal work out of court. This is not quite the case. Barristers are primarily concerned with advocacy and they have an exclusive right of audience (*право выступать в суде*) in the High Court, the Court of Appeal and the House of Lords; but they are not confined to advocacy and may devote much of their time to giving expert opinions on legal matters. Nor are solicitors exclusively concerned with out-of-court work for they have a right of audience in magistrate's courts, county courts and, in some instances, in the Crown Court.

Переведите письменно со словарем.

Text 5

SCOTTISH AND IRISH DECISIONS

Decisions of the S.& I. courts are not binding upon English courts, although entitled to the highest respect. On questions of principle it is desirable that the laws of England and Scotland should be uniform and that a decision of the House of Lords when founded on principle should be regarded as applicable to both countries.

There is a well-settled practice that in revenue and taxation matters courts of first instance in England endeavour to keep in line with the courts of Scotland.

Further, an English court ought to follow the unanimous judgement of the higher Scottish and Irish courts when the question turns upon the construction of a statute which extends to those countries as well as to England.

Прочитайте текст без словаря и скажите по-английски, какая информация об Интерполе оказалась для вас новой.

Text 6

Interpol is an international corporation founded in 1923. It coordinates actions against international criminals. It is not under control of any government.

Interpol is aimed at finding international criminal, it is also fighting against international terrorism, sky-jacking and narcotics. Interpol, like any other police force is under governmental control to protect the basic rights of an every citizen.Interpol cooperates with the UNO, especially in the area of narcotics, and because of this it is recognized as an intergovernmental organization.

Interpol does not have powers of arrest or investigation. Its function is to disseminate (распространять) information. Today, 80 percent of the staff is French.

Interpol has bureaus in various countries. Information is exchanged among many national bureaus but the police forces themselves are responsible to the laws and policies of their nations.

Interpol is divided into four main bodies – the General Assembly, the Executive Committee, the General Secretariat and the National Central Bureau.

Прочитайте текст без словаря и, используя схему, расскажите по-английски о политической системе США.

Text 7

THE AMERICAN SYSTEM OF GOVERNMENT

The United States is a democratic republic (a representative democracy). The national government is a government of all the people and their representatives (elected officials). It is called the federal government because the nation is a federation, or association, of states.

The U.S.Constitution gave the federal government only limited powers, the powers stated in the Constitution. All other powers belong to the individual states.

The Founding Fathers established three branches of government: the legislative, the executive, and the judicial. Each branch has different functions and powers under the principle of separation of powers. There is also a system of checks and balances so that each branch has some control over the other two branches. This way, no one group can have too much power.



Прочитайте текст без словаря и заполните предлагаемую таблицу.

Text 8

THE THREE BRANCHES OF GOVERNMENT

The legislative branch is called Congress. It consists of the Senate and the House of Representative. It is the responsibility of Congress to propose

and pass laws. In the system of checks and balances, Congress can refuse to approve Presidential appointments and can override a Presidential veto.

The executive branch consists of the President, the Vice President, the Cabinet and the thirteen Departments, and the independent agencies. It's the responsibility of the executive to enforce laws. The President has the power to veto (reject) any bill (law) of Congress. He appoints all Supreme Court Justices.

The judicial branch consists of the Supreme (highest) Court, eleven Circuit Courts of Appeals, and ninety-four District Courts. This branch explains and interprets laws and makes decisions in lawsuits. It has power over the other two branches because it can declare their laws and actions unconstitutional (against the principles of the Constitution).

	The Legislative	The Executive	The Judicial
1. What does it consist of?	the Senate the House of Representatives		
2. What are its responsibilities?			
3. What powers does it have under the system of checks and balances?			

Прочитайте текст без словаря и найдите ответы на следующие вопросы.

Text 9

1. When was the US Constitution first written?
2. In what way can it be changed?
3. How can the rules of the British constitution be changed?

A constitution is a set of rules which define the relationship between the various organs of government and between the government and citizens of a country. Its purpose is to set the parameters of governmental power and the rights and duties of the citizens. Therefore, the constitution of any individual country will determinate the system of government in this country.

Before we go on to examine the nature of the British constitution it is important that you have a clear understanding of what is meant by the 'organs' or 'institutions' of government. In this context we mean the executive, the legislature and the judiciary. In addition, in the United Kingdom, the monarch has an important constitutional role as head of state.

Because the rules of the constitution are laws of fundamental importance, they are often included into one written document. For example, the Constitution of the USA was written in 1787 and it is the fundamental law

of America today. The US Constitution like many other written constitutions cannot be changed easily – any change which is called "amendment" (поправка) must be approved by Congress.

The British Constitution is not written but it does not mean that it is not important constitutional document. It means that it is not a single document containing the constitutional laws. But since there is Parliament in the U.K., it can change any law by a simple parliamentary Act. But the British courts are always careful to protect the subject.

Прочитайте текст и найдите ответ на вопрос.

Text 10

"WHY DID MONTESQUIEU ADMIRE THE BRITISH CONSTITUTION?"*

Many Europeans admired the British constitution in the eighteenth century. They were impressed by the degree of liberty enjoyed (*пользоваться свободой*) by British subjects and by the growing power and wealth of the British Empire. One admirer of the British constitution was the French philosopher Montesquieu. His interpretation of the British constitution had a great influence on the Founders (*основатели*) of the USA.

Montesquieu admired (*восхищаться*) what he believed to be the "mixed" nature of the British constitution, which included the best of monarchy – the king or queen, aristocracy – the House of Lords, and democracy – the House of Commons. This constitution was, he believed, a modern example of the classical republican model of government. Montesquieu also saw in the British constitution the principle of separation of powers in government, whereby the executive, legislative and judicial powers are independent of each other.

To some extent, however, Montesquieu misinterpreted (*неправильно понимать*) how the British constitution worked. It was not as "mixed" in its composition as he believed. Both the House of Lords and House of Commons in the eighteenth century were aristocratic.

Moreover, the three branches of government were not fully separated. The monarch through his or her ministers took an active part in the affairs of Parliament. English judges also were considered part of the executive branch.

The British constitution creates a balance of power between monarch and the two houses of Parliament to interpret the law fairly (*справедливо применять законы*). This balance of power was a first step toward the idea of separation of powers and checks and balance in American Constitution.

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* Montesquieu – Монтескье (1689-1755), французский философ, просветитель.

PART TWO

Introduction to Law

Unit One

Ex. 1. Приведите однокоренные русские эквиваленты.

limit, form, phenomenon, penalty, referee, incident, detail, gravity, economics, religion, compensation, concentration, corruption, instruction, natural, social, civil, general, ignore, criticize, legal.

Ex. 2. Переведите, обращая внимание на суффиксы, и скажите, от какой части речи образованы эти слова.

actually, continually, penalty, instruction, government, driver, descriptive, prescriptive, educational, social, legal, national, cultural, punishment.

Ex. 3. Выучите следующие слова и выражения.

law – закон, право
to enforce laws – проводить законы в жизнь
descriptive law – описательный закон
prescriptive law – предписывающий закон
to make laws – создавать законы
to punish – наказывать
punishment – наказание
to commit a crime – совершить преступление
to prosecute – преследовать в судебном порядке
prosecution – судебное преследование
violence – насилие
offence – проступок
justice – правосудие
to escape justice – избежать правосудия
a rule – правило
to break a rule – нарушить правило
a penalty – наказание
to suffer a penalty – понести наказание
a fine – штраф
to fine – штрафовать
a civil action – гражданский иск
to accept – принимать
to belong – принадлежать
to consider – считать, рассматривать
to demand – требовать
to deal with – иметь дело с
to do with smb/smth – иметь отношение к кому-л. или чему-л.
a custom – обычай

Ex. 4. Прочитайте и переведите текст.

WHAT IS LAW?

Descriptive and prescriptive

The English word "law" means various forms of behavior. Some laws are descriptive: they simply describe how people, or even natural phenomena, usually behave. An example is the law of gravity; another is laws of economics. Other laws are prescriptive – they prescribe how people ought to behave. For example, the speed limits are laws that prescribe how fast we should drive.

In all societies, relations between people are regulated by prescriptive laws. Some of them are customs – that is informal rules of social and moral behavier. Some are rules we accept if we belong to particular social and cultural groups. And some are laws made by nations and enforced against all citizens.

Customs need not be made by governments, and they need not be written down. We learn how we are to behave in society through the instruction of family and teachers, the advice of friends, etc. Sometimes, we can break these rules without any penalty. But if we continually break the rules, other members of society may criticize us, or refuse to have anything to do with us. The ways in which people talk, eat and drink, work, and relax together are usually guided by many such informal rules.

The rules of social instructions are more formal than customs, carrying penalties for those who break them. Sports clubs, for example, often have detailed rules for their members. But if a member breaks a rule and refuses to accept any punishment, the club may ask him or her to leave the club.

However, when governments make laws for their citizens, they use a system of courts and the police to enforce these laws. Of course, there may be instances where the law is not enforced against someone – such as when young children commit crimes, or when certain people are able to escape justice by using their money or influence.

Ex. 5. Найдите в тексте эквиваленты следующих слов и выражений.

установленные ограничения скорости, отказываются иметь с нами что-л. общее, отказываются принять наказание, некоторые могут избежать правосудия, имеется система судов и полиция, которые требуют исполнения законов (проводят законы в жизнь), поведение.

Ex. 6. Найдите неправильное утверждение.

1. In all societies relations between people are regulated by customs and traditions.
2. The speed limits imposed on a driver is an example of a prescriptive law.
3. In general it is very easy to escape justice.
4. Both customs and rules are enforced by governments.

Ex. 7. Просмотрите текст и выделите в каждом абзаце предложение, несущее основную смысловую нагрузку.

Ex. 8. Переведите на русский язык, обращая внимание на причастие II.

1. laws made by the governments.
2. customs used by people.
3. relations regulated by ... .
4. laws accepted by the society.
5. laws enforced by the police and courts.
6. crimes ignored by the police.

Ex. 9. Соедините части в предложения, используя необходимый модальный глагол.

		a. obey the laws
1. Citizens	must	b. protect people
2. Children	should	c. go to school every day
3. The police	have to	d. behave properly
	ought to	e. be attentive
		f. know the customs of the country

Ex. 10. Ответьте на вопросы:

1. What is a descriptive/prescriptive law? Can you give your own example?
2. What is the difference between a custom and a law?
3. In what way is the law system described in the text similar to that of your country?

UNIT TWO

Ex. 1. Выучите следующие слова и выражения.

to enforce a law – проводить закон в жизнь
an enforcement – проведение закона в жизнь
to obey the law – подчиняться закону
a law-abiding citizen – законопослушный гражданин
to break a law – нарушить закон
an offence – нарушение
to commit an offence – совершить нарушение
offender – нарушитель
to pass a sentence – выносить приговор
a statute – законодательный акт
a case judgement – постановление
records – документы
to deter – устрашать
to prohibit – запрещать
prohibition – запрещение
to impose (a fine) – наложить штраф
ignorance – *зд.* незнание
to investigate – расследовать
assault – нападение
to have (wide) powers – иметь (широкие) полномочия
a crime – преступление
a criminal – преступник
to warn – предупреждать
warning – предупреждение
a theft – кража
as well as – также как
common law – общее право
judicial – судебный (судейский)

Ex. 2. Прочитайте и переведите текст.

ENFORCING THE LAW

Governments have many ways to be sure that citizens obey the law. They explain to the public what the law is and try to provide social support for law and order. They use police forces to investigate crimes and catch criminals. They use courts to complete the investigation of criminal and civil offences and to pass sentences to punish the guilty and deter others. And they try to re-educate and reform people who have broken the law. Which of these is most effective in enforcing the law?

The laws of all countries are in written records – the legal codes of countries, the statutes and case judgments of common law countries, etc. Many people do not know where to find these records. But ignorance of the law is almost never a defence for breaking it. Governments usually expect citizens to know the laws.

However, there are many laws, such as those prohibiting theft, assault and dangerous driving, which simply reflect social and moral attitudes to everyday behavior. In such cases a person knows he is breaking the law, even if he doesn't know exactly which law it is.

Role of Police Force

The police have many functions in the legal process. Though they deal with criminal law, they may also be used to enforce judgments made in civil courts. As well as gathering information for offences to be prosecuted in the courts, the police have wide powers to arrest, search and question people suspected of crime and to control the actions of members of the public during public demonstrations. In some countries, the police have judicial functions; for example, they may make a decision as to guilt in a driving offence and impose a fine, without a court. In Britain, when someone is found in possession of marijuana, the police may confiscate it and issue a formal warning and not to take the matter to a court.

The mere presence of the police is a factor in deterring people from committing offences.

Ex. 3. a) Вспомните следующие глаголы:

to threaten – угрожать
to warn – предупреждать
to admit – признавать
to accuse – обвинять

b) Прочитйте и переведите предложения (в прямой речи).

1. Don't drive very fast, if you don't want to be in accident.
2. It was not me, they attacked me first.
3. If you don't pay a fine, you will be taken to the police station and, perhaps, to the court.
4. It is me who is guilty.
5. I shall pay for the damage.

c) Закончите предложения в косвенной речи, используя предлагаемое, начало в соответствии с пунктом: "b"

1. He threatened.....
2. She offered.....

3. He warned.....
4. She accused.....
5. He admitted.....

Ex. 4. Соедините, обращая внимание на причастия I и II.

A		
a sentence	commmitted by	a court
a law	imposed by	(a) citizen(s)
a person	enforced upon (by)	a crime
a fine	suspected of	the police
an offence	passed by	a government

B	
police	dealing with crimes
citizens	having wide powers
	obeying the law
	breaking the law
	imposing a fine
	committing a crime
	enforcing the law
	catching criminals

Ex. 5. Соотнесите соответствующие выражения в обеих колонках.

to pass a sentences	to authorize
to have powers	to act wrongly
to enforce laws	to declare a punishment
to commit an offence	to make people obey them

Ex. 6. **A.** Вставьте слова, данные в рамке.

powers; enforcement; investigations; consists; unarmed; court; prosecution; crime

Police officers are usually... and there are strict (*строгий*) limits to police... of arrest and detention (*задержание*).The police service is taking part in international cooperation against... .

The police service in England... of 52 independent forces usually working together with the local authorities (*местные власти*) and each responsible for law... in its own territory.

Most... are initiated by the police but in Scotland the police make the preliminary (*предварительный*)... As soon as anyone is arrested he or she must be brought before a... with a minimum delay.

B. На основе этого текста и последнего обзаца основного текста суммируйте по-английски функции полиции.

Unit Three

Ex. 1. Приведите однокоренные русские слова.

public, civil, private, standard, procedure, personal, modern, criminal, individual, code, reputation, dispute, contract

Ex. 2. Выучите следующие слова и выражения.

civil law – гражданское право
public law – общественное (публичное) право
tort – гражданское правонарушение, деликт
trust – распоряжение имуществом по доверенности
probate – распоряжение собственностью по завещанию
property – собственность, имущество
a wrong – противоправное деяние, нарушение
well-being – благополучие
distinction – различие
inheritance – наследство
a defendant – ответчик, подсудимый
a plaintiff – истец
evidence – доказательство
to prove – доказывать
a proof – доказательство
proven – доказанный
standard of proof – норма доказательства
a guilt – вина
to doubt – сомневаться
reasonable doubt – разумное сомнение
party – сторона
to lose a case – проиграть дело
to win a case – выиграть дело
to bring a (criminal) action – возбуждать дело
to suspect – подозревать
the suspect – подозреваемый
to damage – нанести ущерб, повреждение
a damage – ущерб

Ex. 3. Прочитайте и переведите текст

CIVIL AND PUBLIC LAW

One important distinction is between private – or civil – law and public law. Civil law concerns disputes among citizens within a country, and public

law concerns disputes between citizens and the state, or between one state and another. The main categories of English civil laws are:

Contracts: binding agreements between people (or companies):

Torts:	wrongs committed by one individual against another individual's person, property or reputation;
Trusts:	arrangements whereby a person administers property for another person's benefit rather than his own Land Law;
Probate:	arrangements for dealing with property after the owner's death;
Family Law.	

The main categories of public law are:

Crimes:	wrongs which, even when committed against an individual, can harm the well-being of society in general;
Constitutional Law:	regulation of how the law itself operates and of the relation between private citizen and government;
International Law:	regulation of relations between governments and also between private citizens of one country and those of another

In codified systems there are codes that correspond to these categories. Roman codes covered contracts, property, inheritance, torts, etc but said nothing about criminal law. So most criminal codes are quite modern inventions.

Most countries make a rather clear distinction between civil and criminal procedures. For example, an English criminal court may force a defendant to pay a fine as punishment for his crime and he may sometimes have to pay the costs of the prosecution. But the victim of the crime pursues his claims for compensation in a civil, not a criminal, action.

The standards of proof are higher in a criminal action than in a civil one since the loser risks not only financial penalties but also can be sent to prison. In English law the prosecution must prove the guilt of a criminal "beyond reasonable doubt". Thus, in a civil case a crime cannot be proven if the person or persons judging it doubt the guilt of the suspect and have a reason (not just a feeling or intuition) for this doubt. But in a civil case, the court will consider all the evidence and decide what is most probable.

Criminal and civil procedure are different. Criminal actions are nearly always started by the state. Civil actions, on the other hand, are usually started by individuals.

In Anglo-American law, the party bringing a criminal action (that is, in most cases, the state) is called the prosecution, but the party bringing a civil action is the plaintiff. In both kinds of action the other party is known as the defendant.

Ex. 4. Исправьте неправильные утверждения, используя приводимые ниже выражения.

a)	
it is wrong	
it is false	это неправильно
it is not right	
it is not true	
b)	
on the contrary	наоборот
c)	
it contradicts reality	это противоречит действительности
d)	
in my opinion	
to my mind	по моему мнению
my understanding is that	

1. Both damages and fines are sums of money.
2. Both damages and fines may benefit the victim of the accident.
3. Damages are part of the civil law.
4. Public law includes Contract Law, Constitutional law and Family law.
5. In a civil case a crime is proven even if people's judgment is based on intuition or feeling.

Ex. 5. Составьте возможные сочетания и переведите их на русский язык.

to commit	an action
to bring	a crime
to lose	a case
to doubt	a guilt
to prove	an evidence
to win	a criminal
to require	a prosecution

Ex. 6. Закончите предложения.

1. Constitutional law regulates...
2. International law regulates...
3. Torts deal with...
4. Probate deals with...

Ex. 7. Переведите на русский язык, обращая внимание на слово "since".

1. He was arrested **since** he was found guilty of murdering a man.
2. This case should be a civil action **since** it is a wrong committed against property.
3. The punishment was clear **since** the trial began.
4. He has been afraid of the police **since** childhood.
5. **Since** he refused to pay money for the damages, the case was brought to court.

Ex. 8. Переведите на русский язык, обращая внимание на слова-заменители.

1. I've got only **one** important question to solve.
2. **One** should always remember the difference between civil and criminal law.
3. The standards of proof are lower in a civil action than in a criminal **one.**
4. Since the political regime of the country has changed, the law codes are to be changed to a new **one.**
5. The climate of the Crimea is better **than that** of the Caucasus.
6. International law also regulates relations between private citizens of **one** country and those of another.

Ex. 9. Переведите письменно со словарем.

Civil Justice

The civil law of England, Wales and Northern Ireland covers business related to the family, property, contracts and torts (non-contractual wrongful acts suffered by one person at the hands of another). It also includes constitutional, administrative, industrial and other laws.

Civil proceedings, as a private matter, can usually be abandoned or ended by settlement between the parties at any time. Actions brought to court are usually tried without a jury. Higher courts deal with more complicated civil cases. Most judgments are for sums of money, and the costs of an action are generally paid by the party losing it.

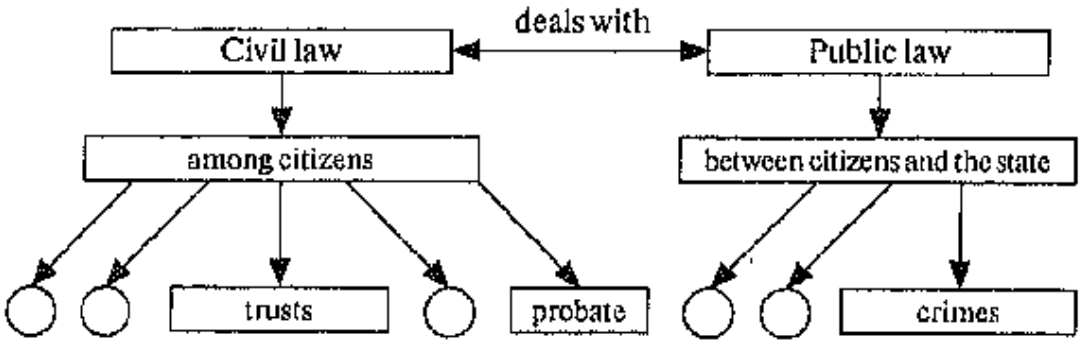
Ex. 10. Прочитайте текст без словаря и скажите по-английски

1) какие нарушения совершила Аннет,
2) виды этих нарушений,
3) возможные наказания за них.

Annette Forbes is head of the marketing division (отдел) of the computer company. She went to the University, has a good job and a good family. She has always been a law-abiding citizen.

One day she arrived a little late for work, and had to park her car in a non-parking zone. Later she took a client out for a business lunch and drank jin and tonic and half a bottle of wine to celebrate (отметить) an important new contract. When driving back to work she was stopped by a policeman who tested her for alcohol. He told her she would be disqualified from driving for a year. Annette who needed a car for her work asked him to forget (забыть) about it in return (взамен) for a newest home computer.

Ex. 11. Заполните предлагаемую схему и, пользуясь ею, перескажите текст.



UNIT FOUR

Ex. 1. Приведите однокоренные русские слова.

regulate, regulation, detail, standard, category, categorize, legal, principle, criminal, interpretation

Ex. 2. Переведите на русский язык, обращая внимание на отрицательные префиксы.

interesting – uninteresting
important – unimportant
lawful – unlawful
regular – irregular
experienced – inexperienced
legal – illegal
literate – illiterate
advantage – disadvantage
to like – to dislike
to understand – to misunderstand
honest – dishonest

Ex. 3. Выучите следующие слова и выражения.

to commit a crime – совершить преступление
criminal – преступник, преступный
Criminal law – Уголовное право
to suspect – подозревать
the suspect – подозреваемый
the guilty – виновный
to find guilty – признать виновным
innocence – невиновность
the innocent – невиновный
to sentence (to) – приговорить к
case law – прецедентное право
common law – общее право
statute ['stætju:t] – законодательный акт
Actus Reus – виновное действие
Mens Rea – состояние воли при совершении преступления

Ex. 4. Прочитайте и переведите текст.

WHAT IS A CRIME?

Crime is a part of public law – the law regulating the relations between citizens and the state. Crimes are acts which the state considers to be wrong and which can be punished by the state. There are some acts which are

crimes in one country but not in another. For example, it is a crime to drink alcohol in Saudi Arabia, but not in Egypt. It is a crime to smoke marijuana in England, but not (in prescribed places) in the Netherlands. It is a crime to have more than one wife at the same time in France, but not in Indonesia. In general, however, there is quite a lot of agreement among states as to which acts are criminal. A visitor to a foreign country can be sure that stealing, physically attacking someone or damaging their property will be unlawful. But the way of dealing with people suspected of crime may be different from his own country.

Elements of Proof

In many legal systems it is an important principle that a person cannot be considered guilty of a crime until the state proves he committed it. The suspect himself need not prove anything, although he will of course help himself if he can show evidence of his innocence. The state must prove his guilt according to high standards and there are elements that must be proved. In codified systems, these elements are usually recorded in statutes. In common law systems, the elements of some crimes are detailed in statutes; others, known as "common law crimes", are still described mostly in case law.

There are usually two importasnt elements to a crime: (1) the criminal act itself; and (2) the criminal state of mind of the person when he committed the act. In Anglo-American law these are known by the Latin terms of (1) *Actus Reus* and (2) *Mens Rea*.

Ex. 5. Найдите соответствующие английский эквиваленты:

1. прецедентное право	a. to commit a crime
2. иметь дело с	b. damages
3. общее право	c. evidence
4. доказательства	d. legal
5. отношения	e. robbery
6. совершить преступление	f. to suspect
7. ущерб	g. to deal with
8. законный	h. common law
9. ограбление	i. relations
10. подозревать	j. case law

Ex. 6. Закончите предложения в соответствии с содержанием текста.

1. A person may be guilty of murder if he killed someone...
   a. intentionally
   b. having intended to injure him slightly
   c. without caring about the danger of his action
2. The court must prove a person's guilt according to...
   a. common sense
   b. proof of crime elements recorded in statutes or codes
   c. the suspect's proof of his innocence

Ex. 7. Прочитайте предлагаемые слова и назовите слова или выражения, ассоциирующиеся с ними:

Модель: sleep – bed, dream, nightmare, early getting up, etc.
crime, accident, statute, evidence.

Ex. 8. Закончите предложения, используя слова, данные в рамке.

a statute; the suspect; a murderer; the innocent; a code; a robber; a thief

1. Someone who steals a lot is.....
2. Someone who killed a person is.....
3. Someone who is suspected of a crime is.....
4. Someone who is found not guilty is.....
5. A document which regulates legal behaviour is.....
6. A document which details elements of a crime is.....

Ex. 9. Составьте предложения, сделав необходимые изменения и выберите один из предлогов, который используется с тем или иным глаголом.

for; of; from; on/upon; against; to; into

1. Her employer / accuse / her / steal / money.
2. His mother / punish / him / be rude / to their neighbour.
3. The lock / prevent / burglar / break / house.
4. The jury / convict / him / murder / his wife.
5. His son / be / arrest / sell drugs teenagers.
6. The judge / congratulate / police / catch / a murderer.
7. She / warn / children / play / outside after dark.

Ex. 10. Прочитайте текст без словаря и объясните по-английски:

1. какого рода совершеное преступление;
2. в каком суде оно должно быть рассмотрено;
3. возможное наказание за содеянное.

Jack Thatcher. Like his father, he is a jailbird (*закоренелый преступник*) – at the age of 40 he has spent most his life in prison for different wrongs of violence and theft. He comes from a poor family, has no real education and has never had a job. The only way he knows how to make money is by stealing (*воровать*) it.

When he came out of prison last week he decided to rob a village post office. During the robbery, the postmaster (*начальник почты*) tried to ring the alarm (*сигнал тревоги*) so Jack hit (*ударить*) him on the head with his

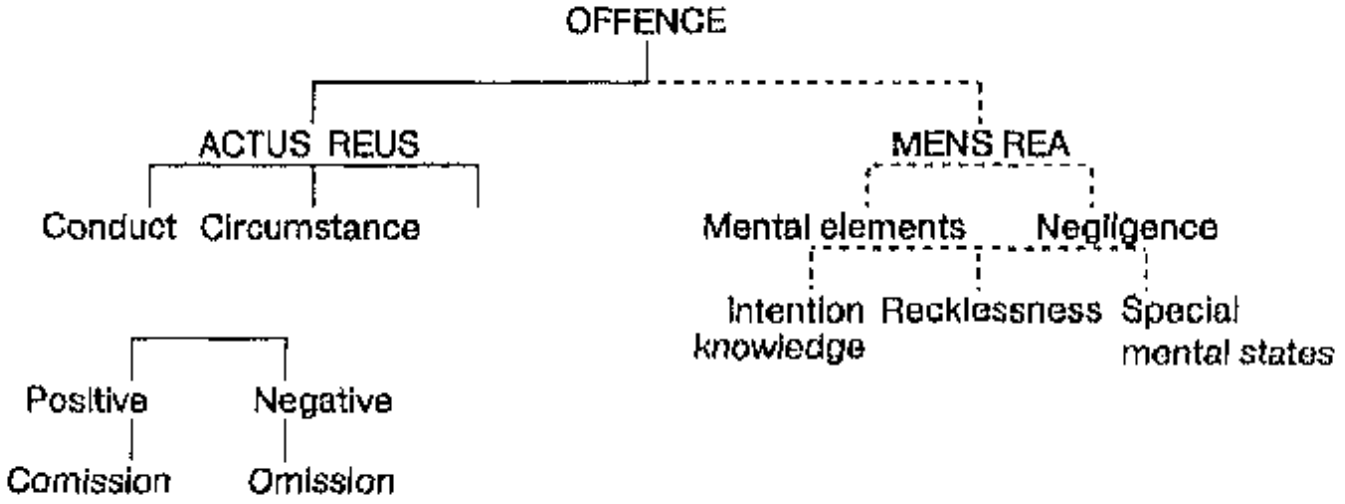
gun. At that moment a customer (*посетитель*) came into the post office. She screamed (*кричать*). In panic Jack wanted her to keep quiet. When she continued to scream, Jack took a box of matches (*спички*) and set fire (*поджог*) to the building, then escaped (*сбежать*) with the money.

Ex. 11. Ответьте на вопросы:

1. What is crime?
2. Is it possible to consider an act of crime in one country as an act of crime in another (illustrate)

Ex. 12. Изучите схему, прочитайте комментарий и объясните по-английски понятие Actus Reus и Mens Rea.

It can be seen therefore that there are two fundamental elements to a crime – a **physical element** known as the *actus reus* and a **mental element** known as *mens rea*. This can clearly be seen in a diagrammatic form:



Before a person can be convicted of a crime it is necessary for the prosecution to prove both elements, i.e.:

(a) that a certain event or state of affairs which is forbidden by the criminal law has been caused by **D's** (*Defendant*) **conduct** (*поведение*); and

(b) that D's conduct was accompanied by the necessary *mens rea* to establish the offence.

It is quite clear that the **burden of proving** (*бремя доказательства*) these essential elements of any offence rests upon the prosecution who must prove the existence of both elements beyond **reasonable doubt** (*разумное сомнение*).

Unit Five

Ex. 1. Выучите следующие слова и выражения.

legal affairs/matters – судебные/правовые дела
an attorney – адвокат; *ам.* прокурор
a barrister – адвокат (выступающий в суде)
senior/junior barrister – старший/младший адвокат
a solicitor – поверенный
a judge – судья
to argue a case – представлять дело в суде
the right of audience – право выступать в суде
litigation – судебный спор, разбирательство
court – суд
lower court – нижестоящий суд
higher court – вышестоящий суд
Court of Appeal – Апелляционный суд
to settle a dispute – разрешить спор
to eliminate – уничтожать
to employ – нанимать
a jury – жюри, суд присяжных
to accuse – обвинять
the accused – обвиняемый(ая)

Ex. 2. Прочитайте и переведите текст со словарем.

PROFESSIONAL TITLES

Although many kinds of people working in or studying legal affairs are called lawyers, the word really describes a person who has the right to act in certain legal matters. Most countries have different groups of lawyers who each take a particular kind of examination in order to qualify to do particular jobs.

In Japan, a lawyer must decide whether he wants to take the examination to become an **attorney, a public prosecutor** or a **judge.**

In England , the decision is between becoming a **barrister** or a **solicitor.** Barristers specialize in arguing cases in front of a judge and have the right to he heard, the **right of audience,** even in the highest courts. They are not paid directly by clients, but are employed by solicitors. Judges are usually chosen from the most senior barristers, when they are appointed they cannot continue to practice as barristers. Sollicitors do much of the preparation for cases which they then hand to barristers, as well as doing legal work which does not come before a court, such as drawing up wills, and dealing with litigation which is settled out of court. Solicitors also have a right of audience

in lower courts, but in higher courts, such as the Court of Appeal, they must have a barrister argue their client's case.

In general, it can be said that a barrister spends most of his time either in a courtroom or preparing his arguments for the court and a solicitor spends most of his time in an office giving advice to clients, making investigations and preparing documents. Many people believe the distinction between barristers and solicitors should be eliminated in England, as has already happened in Australia.

Ex. 3. Найдите в тексте эквиваленты следующих словосочетаний.

судебные дела, держать экзамен на профессию, получить опыт работы, специализация по определенным правовым вопросам, право выступать в суде, уничтожить, иметь дело с, сохранить, разрешить проблему.

Ex. 4. Объедините однокоренные слова и переведите на русский язык.

employed, distinct, elimination, division, argue, lawyer, settlement, eliminate, divide, distinction, law, argument, eliminated, settle, employ, argumentation, settled.

Ex. 5. Запомните следующие сочетания.

contrary to – в противоположность чего-л.
in order to – для того, чтобы
according to – в соответствии с
because of – из-за
in spite of, despite – несмотря на
by means of – при помощи
due to – из-за, благодаря
thanks to – благодаря
in addition to – в дополнение к
in comparison with – по сравнению
in front of – перед
as well as – также как

Ex. 6. Употребите причастие II и переведите.

Модель: to accuse a person – an accused person

1. to prepare documents –
2. to employ a person –
3. to argue a case in the court –
4. to make investigations –
5. to eliminate a division –

Ex. 7. Переведите, обращая внимание на страдательный залог.

1. People at law are called lawyers.
2. Barristers are heard in courts.
3. They are not paid by clients.
4. They are employed by solicitors.
5. They are chosen from barristers.
6. A case which is settled out of court.
7. The distinction should be eliminated.

Ex. 8. Исправьте неправильные утверждения, используя известные вам выражения.

1. Both barristers and solicitors have the right of audience.
2. Both barristers and solicitors can become judges.
3. Both barristers and solicitors have the right to argue a case in high court.
4. Barristers are employed by solicitors to argue a case.

Ex. 9. Выделите слово, не принадлежащее к данной группе слов. Объясните, почему. Предложение начинайте следующим образом:

This word does not belong because...

1. an attorney • a judge • a client • a solicitor
2. a court • a trial • an investigation • a criminal

Ex. 10. Подставьте слово, подходящее данным определениям.

1. ... is a lawyer who gives advice to his clients and prepares documents.
2. ... is a lawyer who is chosen out of barristers.
3. ... is a lawyer who specializes in presenting cases in front of a judge and has the right of audience.
4. ... is a lawyer who employes barristers to argue a case.
5. ... is a lawyer who is not directly paid by a client.

Ex. 11. Соедините подходящие части и закончите предложения по-английски.

1. Litigant is
   a) уголовное дело;
   b) сторона в гражданском процессе;
   c) суд высшей инстанции

2. Legal work which usually is not taken to the court is done by...
   a) адвокат;
   b) поверенный;
   c) судья.

Ex. 12. Переведите письменно со словарем.

Even lawyers with the same qualifications and professional title may be doing very different kinds of work. Most towns in the United States, for example, have small firms of attorneys who are in daily contact with ordinary people giving advice and acting on matters such as consumer affairs, traffic accident disputes and contracts for the sale of land. Some may also prepare defences for clients accused of crimes. However, in both the United States and other industrialized countries, lawyers are becoming more and more specialized.

Ex. 13. Просмотрите текст и найдите ответ на вопросы.

1. Какие дела рассматриваются с судом присяжных?
2. Каковы обязанности судьи?

In British criminal trials the accused is presumed innocent until proven guilty. Trials are in open court and the accused is represented by a lawyer. Most cases are tried before **lay justice** (*мировой судья*) sitting without a jury. The more serious cases are tried in the higher courts before a jury of 12 (15 in Scotland), which decides on guilt or innocence. The judge decides questions of law, sums up the evidence for the jury, and **discharges** (*отпускать*)the accused or passes sentence. A jury is independent of the **judiciary** (*судебная власть*). Cases involving children are held in youth courts or, in Scotland, at informal children's hearings.

Ex. 14. Заполните таблицу, используя имеющуюся информацию, и ответьте на вопросы:

Job	Place of work	Duties
a judge		
a barrister		
a solicitor		

1. What are the duties of an attorney, a solicitor, a barrister, a judge?
2. Who of the lawyers has the right of audience?
3. What is the difference between a lower and higher court?
4. Name three differences between a barrister and a solicitor.

Unit Six

Ex. 1. Выучите следующие слова и выражения.

to restrict – ограничивать
restriction – ограничение
to convict – осуждать
retribution – кара
to prevent – предотвращать
prevention – предупреждение
preventive measures – превентивные меры
relevant (to) – относящийся к
to deprive – лишать
deprivation – лишение
exile – ссылка

Ex. 2. Пользуясь словами, приведенными выше, прочитайте и переведите текст.

CRIMINAL PUNISHMENT

Criminal punishment of persons who have committed crimes is one or the forms of state fight against crime. Any criminal punishment is always a restriction of the rights of convicted persons. This restriction is a sort of retribution for the crime a person committed. If a person is convicted, the court decides on the most appropriate sentence. The facts of the offence, the circumstances of the offender, his/her previous convictions are taken into account. The more serious an offence is, the stricter a penalty should be.

But in any case, the responsibility of the court is to impose an exact and just punishment relevant to the gravity of a crime. The more just the punishment is, the greater is the possibility of a person's reformation. The defence lawyer may make a speech in mitigation on behalf of the offender.

There are the following basic penalties: deprivation of liberty – imprisonment for a certain period of time or life imprisonment -, exile, fines or public censure. Capital punishment is usually used only as an exceptional measure when an especially grave crime was committed. The list of such crimes is not long and it is strictly determined by law. There are quite a lot of countries where death penalty is prohibited.

Ex. 3. Составьте вопросы так, чтобы приведенные ниже предложения были бы к ним ответом.

1. No, a criminal punishment is not only a retribution for the offence committed but also a form of prevention of crimes.

2. No, capital punishment is not yet prohibited in Russia.
3. A form of criminal punishment depends (*зависит*) on the gravity of the crime committed and the personality of a criminal.

Ex. 4. Переведите на русский язык, обращая внимание на страдательный залог.

1. A penalty must be imposed by the court.
2. The rights of the convicted persons are restricted.
3. There are some supplementary penalties that may be imposed on the convicted persons.
4. Capital punishment is permitted only in exceptional cases.
5. The list of crimes which can be punished by a sentence of death is defined by law.

Ex. 5. Переведите на русский язык, обращая внимание на сравнительную конструкцию.

1. The longer the night, the shorter the day.
2. The more serious a crime is, the more strict a punishment will be.
3. The sooner you start, the quicker you'll finish.
4. The more people you know,. the less time you have to see them.

Ex. 6. a) Выучите названия правонарушений.

burglary – проникновение в жилище с целью совершить преступление
kidnapping – похищение людей
arson – поджог
shoplifting – кража в магазинах
blackmail – шантаж
smuggling – контрабанда
forgery – подлог
fraud – мошенничество
terrorism – терроризм
drug pushing – распространение наркотиков
vandalism – вандализм
robbery – ограбление
manslaughter – неумышленное убийство
murdrer – предумышленное убийство

b) What do you call the criminals who commit these crimes?

c) What are the crimes described in the following situations?

1. He threatened to send the love letters to her husband unless she gave him £500.

2. The telephone box had been smashed and there was graffiti all over the walls.
3. Department stores lose millions of pounds each year through goods being stolen off the shelves.
4. Thieves broke into the house while the family was away on holiday.
5. He watched with satisfaction as the fire he lit burnt down the factory. That'll make them wish they'd never given me the sack, he thought.
6. It was a perfect copy. It was so good, in fact, that it could even fool an expert.
7. The bank believed her to be trustworthy. They had no reason to suspect that she had transferred thousands of pounds to false accounts.
8. 'If you want to see your child again, put £50,000 in an old suitcase and wait for further instructions'.
9. George gave the man £50 in return for a small packet of heroin.
10. It was a beautiful day. The sun was shining and people were sitting outside the cafe enjoying the sunshine. Then the bomb went off.
11. 'If only I hadn't brought these watches through customs' she thought as she sat crying in the police station.

Ex. 7. Скажите, какого рода наказание полагается за следующией преступления, и обоснуйте свою точку зрения:

blackmail, forgery, murder, terrorism, shoplifting

Ex. 8. Представьте, что вы член комиссии по помилованию (parole board), тюрьма переполнена, и вам нужно освободить двух заключенных. Обоснуйте свой выбор:

Alan Jones: Guilty of murdering his wife by slowly poisoning her. Described by neighbours as a kind and gentle person. His children love him. His wife had lots of affairs and pushed him to the limit

Janet Green: Found guilty of shoplifting for the tenth time. She is a homeless tramp who likes to spend the winter in prison. It is early December and the weather is very cold.

Miranda Morgan: A drug addict guilty of selling heroin to teenagers. Has already tried two unsuccessful drug treatment programmes. Has a two year old child who will have to go into care if she goes to jail.

Mick Brown: Guilty of vandalism and football hooliganism. 19 years old and below average intelligence. Agressive and gets violent when drunk. One previous offence for drunken driving.

Cynthia Carter: English teacher guilty of smuggling her two cats into England. This is against quarantine regulations. The customs officers would like an example to be made of her.

Ex. 9. Переведите диалоги (работа с переводчиком).

A: How are persons under 18 punished in your country?
B: Если суд сочтет возможным не применять наказания к человеку, не достигшему 16 лет, то он может выбрать воспитательные меры.
A: What do you mean by educational measures? Is it a warning on a person or a reprimand?
B: Да, и то, и другое. Кроме того, это может быть извинение пострадавшей стороне и передача под наблюдение (surveillance) родителей.
A: What about a person's future life? Does the court create a criminal record and how will it affect his/her future life?
B: Нет, уголовное дело в таких случаях не заводится, и если человек более не нарушит закон, то и не будет отрицательных последствий (consequences).

Ex. 10. Прочитайте текст без словаря и назовите слова, являющиеся юридическими терминами. Расскажите по-английски, как работает суд присяжных.

In England a person accused of crime must always be presumed innocent until he has been proven guilty. If a criminal case is serious it is always investigated with a jury. What is a jury and how does it function?

There are 12 members of the jury both men and women. There are quite a lot of people in England who think that 12 ordinary men and women are not capable of understanding properly all the evidence given at criminal trials. But there is no doubt about it because judges are great experts in summing up the evidence. The judge calls the jury's attention to all most important points in the evidence. He favoures neither prosecution nor defence. The members of the jury decide only the questions of fact. Questions of law are for the judge. The jury retires to a private room to consider the verdict. If the jury cannot agree, they must be discharged (распущен) and a new jury is formed.

A verdict has to be unanimous (единогласный) . English law requires that the guilt of an accused man must be proved 'beyond reasonable doubt'. When the jury returns to the courtroom, they have to give only one answer "Guilty" or "Not guilty".

Ex. 11. Переведите письменно со словарем.

Criminal Justice

The criminal justice system aims to prevent and reduce crime, and to deal without delay with those suspected or accused of crimes. It also aims

to help victims of crime, to convict the guilty and acquit the innocent, and to punish suitably those found guilty.

The proceeds from serious crime such as drug trafficking, robbery may be confiscated by the courts. The Government has certain exceptional powers for dealing with and preventing terrorist activities. These take account of the need to achieve a balance between the safety of the public and the rights of the individual.

Law enforcement is carried out by 52 locally based police forces, with a combined strength of about 160,000. Police officers are normally unarmed and there are strict limits to police powers of arrest and detention.

Ex. 12. Discussion.

1. Do you share the opinion that criminals need help more than punishment? Give your arguments for and against this statement.
2. What is your opinion concerning death penalty? Give your pros and cons.

Unit Seven

Ex. 1. Прочитайте статью, пользуясь словами и выражениями, приведенными ниже.

to find oneself in... – оказаться
luck was beginning to run out – удача изменила
in financial difficulties – в финансовых затруднениях
hammer – молоток
gambling – игра
to pay off one's debts – заплатить долги
custody of the children – опека над детьми
a nanny – нянька
a cross-Channel ferry – паром, курсирующий через Ла-Манш
concrete – бетон

WHATEVER HAPPENED TO LORD LUCAN?

For some reason, Lord Lucan was known to his friends as 'Lucky' Lucan. In the early 1970s, however, his luck was beginning to run out, and in 1974, at the age of 39, he found himself in serious financial difficulties. He had lost more than £250,000 at gambling tables around the world, and had been forced to sell the family silver to pay off some of his debts. He was also separated from his wife, and was fighting her in the courts for the custody of their three children.

But on 7 November 1974, Lady Lucan ran into a pub near her home in Belgravia, London. She was covered in blood and was screaming 'He's murdered my nanny!'

Lucan had gone to the house armed with a hammer, intending to murder his wife. He had been hiding in the kitchen when the children's nanny had walked in, and he had killed her by mistake. He had then panicked and run out of the house, attacking his wife on the way. A police search began.

But Lucan has never been found. On the day of the murder, he sent a note to an old schoolfriend saying that he was going to disappear for a time, and a car he had borrowed was found at the port of Newhaven, where police believed he had boarded a ferry for France.

Since then Scotland Yard has been looking for him in different parts of the world but – no resultes.

As recently as 1995, a woman said that she had been babysitting at the house of one of Lucan's friends on the day after the car was found (she was 16 at that time), and that Lucan had appeared up at the door.

So what happened? Did he kill himself, perhaps by jumping off a cross-Channel ferry? His wife thinks so: he was a noble man, she says, and would

behave in a noble way. Others say that you need 150 kilos concrete to keep a body at the bottom of the sea – so if Lucan jumped into the sea, why has his body never been found?

Or did he leave the car at Newhaven and return to London (as the babysitter's evidence suggests)?

Ex. 2. Ответьте на вопросы.

1. How did Lord Lucan get into debt?
2. How did he try to find the way out of his financial difficulties?
3. Was he living with his wife?
4. What did he do to nanny?
5. What did he want to do to his wife?
6. What did he do to his wife?
7. What did police think about Lord Lucan?

Ex. 3. a) Прочитайте следующие предложения и скажите, какие события произошли раньше, чем леди Лукан появилась в пабе.

Lady Lucan ran into a pub screaming.
Lord Lucan went to the house.
He was hiding in the kitchen when the nanny came in.
He killed the nanny.
He attacked his wife.
The police started to look for him.
A car was found in Newhaven.
Perhaps he boarded a ferry for France.

b) Исправьте эти предложения, используя нужную временную форму. Проверьте себя по тексту.

c) Найдите в тексте другие предложения, где временная форма сказуемого показывает связь с настоящим. Переведите их на русский язык.

Ex. 4. Переведите на русский язык, обращая внимание на временную форму.

1. When I got home, I was very tired – I'd been walking for five hours.
2. His face was very red – he'd been lying in the sun for a long times.
3. She had been babysitting at the house of Lucan's friends.

Ex. 5. Переведите на русский язык, обращая внимание на выделенные местоимения.

1. **Whenever** you are in Moscow, come and see me.

2. **Wherever** you go, I'll go with you.
3. **Whoever** it is, I don't want to see him.
4. **Whatever** you say to her, she never listens.
5. **However** rich people are, they always want more.

Ex. 6. Расположите предложения согласно последовательности событий, обращая внимание на временные формы сказуемого.

1. Lucan had gone to the house with a hammer.
2. Lucan was a lucky man.
3. He was going to murder his wife.
4. In 1970s Lucan's luck was beginning to run out.
5. Lady Lucan ran out into the pub on 7 November, 1974.
6. He had lost a lot of money in gambling.
7. She was shouting: "He has murdered my nanny"!
8. Police believed he had boarded a ferry.
9. Lucan had killed his children's nanny by mistake.

Ex. 7. Дайте свою версию исчезновения лорда Лукана.

Ex. 8.

A. Вы случайно видели лорда Лукана. Расскажите, где, когда, что вы делали в тот момент, что делал Лукан, что случилось потом.

B. Ваш слушатель – полицейский из Скотланд-Ярда. У него к вам есть вопросы, которые он и задает (группу можно разделить пополам или работать в парах).

Unit Eight

Ex. 1. Выучите следующие слова и выражения.

to defend – защищать
defences – защита в суде; возражения ответчика
to avoid – избегать
to recognize – признавать
to threaten – угрожать
a threat – угроза
to convince – убеждать
to alter – изменять
to deceive – обманывать
to force smb to do smth – принудить силой сделать что-л.
to charge smb of smth – обвинять кого-л. в чем-л.
a charge – обвинение
to require – требовать
requirement – требование
duress [djʊ(ə)ˊrəs] – физическое принуждение
insanity – невменяемость
mental illness – психическое заболевание
self-defense – самозащита
mitigation – смягчение наказания
to lessen – уменьшать
to confuse – путать
to pass a law – принять закон
to cause – вызывать, явиться причиной
a cause – причина

Ex. 2. Прочитайте и переведите текст со словарем.

DEFENSES

A defendant may avoid guilt if he can show he has a defence – a reason the court should excuse his act. Different systems of law recognize different and usually limited sets of defenses. For example, English law sometimes allow the defense of duress – being forced to commit a crime because of threats. Duress may be used as a defense for a secondary party (helping the murderer).

Another defense is that of insanity. In most country a person cannot be found guilty of a crime if in a doctor's opinion he cannot have been responsible for his actions because of mental illness. But this defense requires careful proof. If it is proven the defendant will not be sent to a prison, but instead to a mental hospital.

It might be argued that a person is not responsible for his actions if he is intoxicated – drunk or under the influence of drugs. In fact, an intoxicated

person may not even know what he is doing. However, in Britain and many other countries, there is a general principle that people who purposely get themselves intoxicated must be responsible for their acts. Consequently, intoxication is not a defense.

Nearly every system of law recognizes the defense of self – defense. In England law, a defendant can avoid guilt for injuring someone if he can convince the court that the force he used was to protect himself.

The concept of defense should not he confused with that of mitigation – reasons your punishment should not be harsh. If a person has a defense, the court finds him not guilty. It is only after being found guilty that a defendant may try to mitigate his crimes by explaining the specific circumstances at the time of the crime.

Ex. 3. Найдите в тексте эквиваленты следующих словосочетаний.

оправдать действия; виды защиты; соучастник, быть ответственным за что-л.; под влиянием; убеждать суд в чем-л.; особые обстоятельства.

Ex. 4. Переведите на русский язык.

self-control, self-defense, self-protection, self-respect, self-service, self-educated.

Ex. 5. Используя отрицательные префиксы **-ab-**, **-un-**, **-ir-**, **-in-**, образуйте слова с отрицательным значением и переведите.

reasonable, armed, altered, limited, responsible, sanity, normal.

Ex. 6. Переведите на английский язык, используя причастия I и II.

A. 1. закон, регулирующий отношения между гражданами и государством
2. человек, совершающий преступление
3. преступник, угрожающий кому-л.

B. 1. действия, регулируемые законом
2. преступление, совершенное под влиянием эмоций
3. защита, признаваемая судом

Ex. 7. а) Прочитайте и переведите со словарем факты.

FACTS

The accused killed his wife outside the hostel in which she had been staying and was charged with murder. At the trial he pleaded guilty to manslaughter, but not guilty to murder.

Medical evidence was called by both sides, the defence-calling the prison medical officer, the prosecution – a consultant psychiatrist. Both doctors agreed that the accused was suffering from chronic depression, which the accused argued to be a mental illness which influenced him at the time of killing. Both doctors agreed that a reactive depressive illness could be an abnormality of mind, but not in this case.

The judge directed the jury that the test be applied to determine whether Seer's responsibility was diminished, whether he could be described partially insane. Both doctors had been asked whether this description could be applied to the accused, and both agreed that it could not.

Вывод: A.C.: Diminished responsibility distinguished from insanity — "Частичная потеря ответственности за свои действия, но не по причине невменяемости в момент убийства".

b) Выразите свое (не)согласие (полное или частичное) с этим выводом. Обоснуйте свое мнение.

Ex. 8. Discussion.

What is the difference between defense and mitigation?

Unit Nine

Ex. 1. Прочитайте заголовок газетной статьи. Предположите, о чем она.

Was Justice Done?

Ex. 2. Прочитайте текст (Ex. 6) и проверьте, правильна ли ваша догадка.

Ex. 3. Выявите слова, не принадлежащие к данной группе слов. Объясните, почему. Предложения начинайте следующим образом:

It doesn't belong because...

1. a shotgun a machine gun a revolver a crime
2. to shoot to stab to hit to protect
3. a burglar a robber a thief a barrister

Ex. 4. Переведите на русский язык, обращая внимание на сослагательное наклонение.

1. You did not tell me. You should have told me.
2. They were playing on the road. They shouldn't have been playing on the road.
3. He should not have fired. He might have been terrified.
4. If a burglar had not been injured, the man would not have been arrested.

Ex. 5. Найдите толкование слов и выражений колонки А в колонке В. Дайте русские эквиваленты.

A	B
1. self-defence	a. a small hut for keeping things
2. allotment	b. act that shocks public opinion
3. a shed	c. a small piece of land which can be rented for growing vegetables
4. to do somebody	d. to collect money for some purpose
5. in advance	e. to kill somebody
6. public outcry	f. a protest in public
7. to raise money	g. beforehand
8. to be terrified	h. to be frightened, scared
9. to earn money	i. defence of one's own body or property
10. outrage	j. to make money in profession

Ex. 6. Прочитайте текст снова и ответьте на вопросы.

An 82-year-old man who shot a burglar who was trying to break into his allotment shed was ordered to pay £4000 damages yesterday. Ted Newbery had been sleeping in the shed to try to stop vandals destroying his allotment.

He fired through a hole in the door when he heard voices outside. Mark Revill, 28, was hit in the chest and arm as he and another man tried to get into the shed. They had gone there to steal, knowing that the pensioner had a television set and a washing machine.

Mr Newbery had slept in the shed every night for four years because of vandalism, the court was told by the defence. That night, he heard a voice saying "If the old man's in there, we'll do him". He was absolutely terrified, and fired the gun in self-defence. As a result of the incident, Mr Revill lost two fingers, and has partially lost the use of one arm.

Mr Justice Rougier ruled (*постановил*) that Mr Newbery had acted out of all proportion to the threat. He had not acted in panic, but had planned his response in advance. Mr Justice Rougier wanted Mr Newbery to pay £4000 to Mr Revill for his injures and loss of earning.

The judgment (*судебное решение*) caused an immediate public outcry. Tim Molloney, the Mayor of Erewash, began to raise money to pay Mr Newbery's bill, and started the fund with a contribution of £100. Since then, money has been coming from all over the country. Husseyin Ozer, 42, said he would sell his Rolex watch to pay the award. "I am outraged. The old saying that an Englishman's home is his castle does not seam to be true any more," he said.

1. What did Ted Newbery do in his shed?
2. Why did he have a shotgun?
3. What did he do with it?
4. Why did the judge say that Mr Newbery had planned everything in advance?
5. What did the public think about it?
6. What did they do?

Ex. 7. Выразите свое (не)согласие, используя следующие выражения.

He was right/wrong to...
He had no right to...
It was his own fault that...

1. Mr Newbery was right to try to defend himself but he should have fired a warning shot or shouted a warning first.
2. Mr Newbery had no right to shoot Mr Revill even in self-defence. He should have been sent to prison.
3. It was Mr Revill's fault if he was injured – he shouldn't have been trying to break in.
4. The Mayor was right to start a fund to help Mr Newbery.
5. The whole thing is crasy. Mr Revill should have paid Mr Newbery £4000.

Ex. 8. Discussion.

Was justice done?

Unit Ten

Ex. 1. Выучите следующие слова и выражения.

human rights – права человека
to violate human rights – нарушать права человека
to entitle – давать право
to be entitled to – иметь право на
to meet the standards – *зд.* придерживаться норм
to escape – *зд.* бежать из, спасаться
to depend (on) – зависеть
to adopt (a law, a declaration) – принимать (закон, декларацию)
to torture – пытать

Ex. 2. Прочтите и переведите текст со словарем.

HUMAN RIGHTS

Everybody knows that many of the rights of citizens are considered human rights. For example, a constitutional right is one which a state guarantees to its own citizens and sometimes even to foreigners who are within its jurisdiction. Still a question comes: What are human rights? Not everyone agrees that being born a human being entitled someone to certain freedoms and certain treatment. And those who agree have different opinions as to what these rights are. A human right is one to which people all over the world are entitled, whatever their nationality and wherever they live.

Most of the law in the world is made by governments for their own people. But human rights are independent of any political divisions. They are basic minimum standards of freedom and security for all people. When governments do not meet these standards, they are criticized by their own citizens and even by foreign governments. Sometimes some countries impose economic sanction against those countries where human rights are violated. For example, many countries have limited trade to South Africa because of the policy of apartheid (апартеид).

As a rule, human rights are violated when governments violate their own constitutions, and very often their policies make citizens to escape to another countries. But legally, most countries of the world have signed international agreements concerning the treatment of individuals. The most important agreement is the Universal Declaration of Human Rights (UDHR) adopted by UN General Assembly in 1948. Article 1 of UDHR declares that all human beings are born free and equal in dignity and rights, and Article 2 states that it does not depend upon race, color, sex, language, religion or any other difference among people.

Ex. 3. Сверяясь с текстом, выберите нужное значение следующих слов.

1. to entitle – озаглавливать, называть, давать право на
2. treatment – лечение, обращение, обработка
3. trade – профессия, производство, торговля
4. security – залог, гарантия, охрана, безопасность
5. to adopt – заимствовать, принимать, усыновлять

Ex. 4. Вставьте слова, приведенные в скобках.

1. This... with... to racial equality but he strongly protest... sexial equality (against, politician, the right, agrees)
2. ... suffer economic and social... when they... paid... for... the same work as men. (inequality, doing, are, women, less).

Ex. 5. Выберите нужную форму.

1. In 1978 Saida Elmi (arresred, was arrested) by the Somali government and (was held, hold) in prison for 6 years and (tortured, was tortured).
2. Torture (is used, used) to get information from prisoners or just (to frighten, to be frightened) them.
3. A group of women in Saudi Arabia (broke, was broken) the law by driving cars in a country where only men (permit, are permitted) to drive. They (arrest, were arrested) and (were released, released) when their husbands (were taken, took) them home and (promised, were promised) to keep them out of trouble.

Ex. 6. Переведите письменно со словарем.

The European Convention on Human Rights (ECHR) was first adopted in 1950 and has now been signed by every country of Western Europe. Individual citizens of these countries have the rights to bring a complaint before the European Commission if they think their government has broken the Convention. If the Commission agrees, it may try to persuade the country in question to rectify the breach, or it may refer the matter to the European Court of Human Rights, which has the right to order a change of law in that country. Covering countries with similar cultures and economic conditions, the ECHR is more practical than many international human rights agreements.

Ex. 7. Просмотрите текст за 3 минуты и расскажите по-русски, что представляет из себя Европейский Суд по правам человека.

The European Court of Human Rights was established by the European Convention for the Protection of Human Rights and Fundamental

Freedoms and was set up in Strasbourg in 1959. The Convention was inspired by the UN Universal Declaration of Human Rights of 1948 and protects many essential (*важный*) rights such as the right to life, freedom from torture and slavery (*рабство*) of thought, conscience (*совесть*) and religion, the right to marry and found a family, freedom of peaceable assembly and association and the right to a fair (*справедливый*) trial. Only states which are parties to the Convention and the EC of Human Rights have the right to bring a case before the Court.

Ex. 8. Ответьте на вопросы:

1. Did you have any idea about human right problem before reading this article?
2. Are there any facts in the article that are quite new to you? What are they?
3. Are there any facts you find the most surprising? What are they?
4. What is your opinion of the things described?
5. Do you have any observations about violation of human rights either in your country or in any other?

Supplement

Дополнительные тексты для чтения, обсуждения и письменного перевода

Прочитайте текст со словарем и расскажите по-английски, чем отличаются уголовное и гражданское право.

Text 1

CLASSIFICATION OF LAW

There are many ways in which the law can be classified. Here we shall limit our discussion to the difference between criminal and civil law.

A simple distinction between the criminal law and the civil law is that the latter regulates the relationships between individuals or bodies and the former (*первое и последнее по упоминанию*) regulates the legal relationships between the state and individual people and bodies.

The first practical difference is seen in the parties to the legal action. A civil case will involve two (or more) individual people or bodies whilst the parties to a criminal case will be the state and an individual person or body.

Let us look at the examples of both criminal and civil law.

First, the civil law. Examples of this include the law of contract, tort (literally meaning 'wrong') and property. Consider the following situation.

You decide to buy a radio from a local shop. You pay the correct price and take the radio away. You have entered into a contract with the owner of the shop. After two days the radio fails to work.

This is a common situation and usually the shopkeeper will replace the radio or return your money. If not, you may wish to take legal action to recover your loss. As the law of contract is part of the civil law the parties to the action will be you (an individual) and the owner of the shop (an individual person or body).

How let us look at some examples of the criminal law. This is the law by which the state regulates the conduct of its citizens. Criminal offences range from the small to the very serious (e.g. murder, rape). Look at the following situation.

You are driving your car at 70 m.p.h. in an area which has a speed limit of 40 m.p.h. You are stopped by a police officer and subsequently a case is brought against you for dangerous driving.

This is a criminal offence. The parties to the action will therefore be the state (in the form of the prosecuting authority) and you (an individual).

Although the division between civil and criminal law is very clear, there are many actions which will constitute a criminal offence and a civil wrong. Let us look again at the situation where you are driving your car too fast. Suppose that while you were doing this you knocked over and injured an elderly lady. You will have committed a criminal offence (dangerous driving) and a civil wrong (negligence).

Прочитайте текст со словарем и расскажите по-русски, по каким ТРЕМ принципам классифицируются суды в Великобритании.

Text 2

The structure of the courts sometimes reflects the difference between civil and criminal law. One should also know the difference between courts of the first instance and appelate courts. The court in which a case is first heard is called the court of first instance (*юрисдикция суда первой инстанции*). In almost all cases it is possible to appeal to a higher court for reconsideration of the decision of the original court. These courts are called appelate courts.

There are, within the English legal system, a large number of courts. There are various ways of classifying courts... thus it is possible to classify courts according to their functions. The obvious classification would be into courts of civil and courts of criminal jurisdiction. This classification is not, however, very precise since, although certain courts exercise a purely civil or criminal jurisdiction, most English courts hear both civil and criminal cases. Thus the House of Lords, Court of Appeal, High Court, Crown Court (*Верховный*) and magistrates' courts exercise jurisdiction in both civil and criminal matters. A second classification woul be into courts of original and courts of appellate (*апелляционная юрисдикция*) jurisdiction. Nor is this division of general application. Although certain courts, such as the Court of Appeal and the House of Lords, exercise a purely appelate jurisdiction, while other courts, such as magistrates' courts, have no appellate jurisdiction. Many courts, notably the High Court and the Crown Court, exercise both original and appelate jurisdiction.

Прочитайте текст со словарем и нарисуйте схему иерархии британского суда.

Text 3

In the English legal system some courts have more authority than others. Judges in the lower courts are bound to follow the decisions of judges in the higher courts.

The House of Lords is the highest appeal court in the English legal system. Its decisions are binding on all other courts.

The Court of Appeal is below the House of Lords in the hierarchy. It is bound by the decisions of the House of Lords and its decisions are binding on all lower courts. It is also bound to follow its own previous decisions except when a) a previous decision of the Court of Appeal conflicts with a decision of the House of Lords, b) there are two conflicting Court of Appeal decisions when it must choose which one to follow, and c) a previously decision was given *per incuriam* (through lack of care – generally when some relevant law was not taken into consideration).

The court below the Court of Appeal is the High Court of Justice. It is bound to follow the decisions of the House of Lords and the Court of Appeal. Judges of the High Court will normally follow the decisions of follow High Court judges but they are not absolutely bound to do so.

The court of first instance for criminal cases, the Crown Court, is bound by the House of Lords and the Court of Appeal; the lowest courts in the hierarchy, the county court and the magistrates' courts are bound by the High Court, the Court of Appeal and the House of Lords. No court is bound by the decisions of these lower courts.

Since 1972 when Britain joined the European Community, the position of the European Court of Justice must also be considered.

Прочитайте текст без словаря и расскажите по-русски, какие типы наказаний в нем описываются.

Text 4

CIVIL AND CRIMINAL PENALTIES

There are several kinds of punishment available (*имеются в распоряжении*) to the courts. In civil cases, the most common punishment is a fine. For criminal offences fines are also often used when the offence is not a very serious one and when the offender has not been in trouble before. Another kind of punishment available in some countries is community service (*общественно-полезный труд*). This requires the offender to do a certain amount of unpaid work, usuallly for a social institution such as a hospital. For more serious crimes the usual punishment is imprisonment. Some prison sentences are suspended (*отложить*): the offender is not sent to prison if he keeps out of trouble for a fixed period of time, but if he does offend again both the suspended sentence and any new one will be imposed. The length of sentences varies from a few days to a lifetime. However, a life sentence may allow the prisoner to be released after a suitably long period if

a review (parole) board agrees his detention no longer serves a purpose. In some countries, such as the Netherlands, living conditions in prison are fairly good because it is felt that deprivation of liberty is punishment in itself and should not be so harsh (*суровый*) that it reduces the possibility of the criminal reeducating and reforming himself. In other countries, conditions are very bad.

Прочитайте текст со словарем и выразите свое согласие/несогласие с приговором за совершенное преступление.

Text 5

DRIVER ON PHONE CAUSED DEATH

A woman was arranging a dinner date with her boyfriend on her mobile phone when her car crashed into another, killing its driver. Deborah Haynes, an employment agent, was holding the phone with one hand and steering with the other as she pulled out at 70 mph to overtake on a bend. In the seconds before the three car crash her passenger, Susan Penny, a colleague, saw what about to happen and tried in vain to grab the wheel, said Maureen Baker, prosecuting.

Haynes wept at Lincoln Crown Court as she was jailed for 12 months and banned from driving for two and a half years after admitting causing death by dangerous driving.

The driver of the oncoming car, Arthur Smith, 79, of Sibsey, Lincs, died at the scene of the accident.

Mrs Penny sustained multiple injures which required treatment lasting five weeks at a specialist spinal unit.

Прочитайте статью со словарем и изложите свою версию того, что могло случиться с Джорджем.

Text 6

BOY'S BODY FOUND IN CANAL

The body of a teenage rugby player has been recovered from a canal less than a mile from his home.

Police divers had been searching the canal on the outskirts of Exeter, Devon. They found the body close to the Paddington-Penzance railway line.

Detectives believe that the victim, George Mortimer, was murdered. He had told a schoolfriend that he had arranged to meet two men. George, 16, had left home with an overnight bag and his parents were not surprised when he did not return home that night.

Two men, who were arrested more than 200 miles away, near Manchester, were being questioned.

George, who captained Exeter rugby club youth team, wanted to pursue a sporting career.

Прочитайте статьи со словарем и прокомментируйте их.

Text 7

A teenage couple's dream of eloping ended just four miles from their home when a bus they had stolen for the journey weered off the road and into a field, writes Sean O'Neill. Andrew Hodges, 18, and his 16-year-old girlfriend were arrested.

But romance did not die. After an appearance in court Hodges said: "I really love her and I'm going to marry her one day, whatever my mum says."

Hodges had never driven before. The crash caused an estimated £3,000 damage.

Hodges, unemployed, admitted taking the bus without consent and driving without a licence or insurance. He was placed on probation for two years and ordered to do 50 hours' community service.

Text 8

CASH FOR DEAD GIRL'S FAMILY

A police force has made a secret £10,000 payment to the family of a teenage girl whose killer was only convicted because her mother and grandmother pursued the case for 20 years.

Derbyshire police admitted they had made the "special payment" to the family of 16-year-old Lynn Siddons, who was stabbed to death in 1978.

Lynn's grandmother Florence Siddons, 83, who raised her, and her mother Gail Halford, 53, led a 20-year campaign to ensure that her killer, Michael Brookes, now 54, was convicted.

Text 9

CHURCH THEFT BY EX-BANKER

A former City banker who moved back to his home village stole £25,000 from church funds, a court was told.

Thomas Avery, 38, became a churchwarden near Winchester, and was then appointed treasurer of church council. But over 17 months he stole from the church's bank account and from fund-raising takings.

Every, who will be sentenced next month, admitted 11 charges of theft, two of forgery and two of deception.

Прочитайте текст без словаря и выполните задания к нему.

Text 10

HAVE YOU SEEN THIS MAN?

Police issued an Identikit photograph (*фоторобот*) of a man they wish to interview in connection with the theft (*кража*) of the diamond (*бриллиант*) from a valuable collection which was shown at the Grand Hotel in Manchester, last Saturday evening.

This diamond was the center of attention at the exhibitition. One of the officials (*официальные лица*) said: "We can't believe that the diamond has been stolen. We have a very sophisticated (*сложный*) security system. Since the diamond is so well known it will be difficult for the thief to sell it."

It happened when the London dealer Mr Gruyt was giving a speech and everybody was listening. Then the guests heard a gun shot and saw a tall, greyhaired man run from the room.

Guests described him as a tall man, about 50 years old, with blue eyes, a small beard and moustache. The name he gave at the reception (*прием*) was Captain Rogers. The police thinks that it was not his real name. They also think that his appearance may be a disguize (*камуфляж*). One woman who spoke to him said: "He was a charming man, intelligent and very well informed about diamonds. I thought he was an expert. He was a bit shy and nervous because he was pursing (*покусывать*) his lips and he smoke a lot."

The police also know that the man spoke in an educated language and showed an interest in chess. The police also have given the warning (*предупреждение*): "We would advise anyone who thinks he or she can identify this man not to come up to him but to contact the police. He is dangerous."

I. Выберите вариант ответа соответственно содержанию текста.

1. The police... what the man who stole the diamond looks like.
   a. they are sure they know
   b. do not know exactly
   c. have no idea at all
   d. are simply guessing
2. The officials think that the thief will...
   a. sell a diamonf easily
   b. keep it in his collection
   c. not find a buyer
   d. try to get rid of (*избавиться*) it as fast as he can

3. One woman who spoke to the man... an expert.
   a. was informed
   b. thought he was
   c. wondered if he was
   d. wasn't sure
4. The woman had the impression that the man was nervous because...
   a. he smoked all the time
   b. he moved around all time
   c. his voice was trembling (дрожать)
   d. he did not know what to do with his hands.
5. If you think you see the man, the police recommend to...
   a. to come up to him
   b. contact the police and then talk to him
   c. phone them and not speak to him
   d. find a newspaper reporter

2. Can you explain how the Identikit photography is made?

3. Can you think of any other ways to identify a criminal?

Прочитайте текст со словарем и обсудите предлагаемые вопросы.

Text 11

HAVANA

Crime is on the rise in Cuba. Almost everyone in the capital can tell you of birglary, robbery at gunpoint, even murder. In reality, the crime rate is low compared with the rest of the world, but the fear is now there. Many householders have fitted new locks and window bars.

Fidel Castro understands a problem. In his speech at the celebration of the 40th anniversary of the National Police he said: "Crime results in internal political problems. Internal order depends on you. If we lose the battle for internal order, then we lose everything."

The police listened to President's new plan to change the situation: sentences from 20 years upto life imprisonment for housebreaking and death for drug traffickers.

Will it work? It is well known that Havana's police are corrupted. People say that it is useless to report crimes to the police if you can't pay.

One doctor at Havana's leading hospital returned home to find burglars in the house. She had the vehicle's registration number, but the police told her there was nothing they could do.

"They knew as soon as they saw so that I couldn't afford to pay them anything," is her explanation.

1. How do you understand Castro's saying: "If we lose battle for internal order, then we lose everything."
2. Do you think that Castro's plan will work?
3. Does the increase of imprisonment decrease crime?

PART THREE

Types of Law

UNIT ONE
Types of Legal Professions in Great Britain, the USA & Russia

Text 1
THE LEGAL PROFESSION IN GREAT BRITAIN

The **legal profession** in England is divided into two main groups, **barristers** and **solicitors.** A popular definition of the distinction between solicitors and barristers is that barristers **do the court work** and solicitors **do the office work.** In practice, the major volume of court work is done by solicitors and barristers do much "office" work. At present no solicitor, however experienced, may **represent a client at a full hearing** in any of the higher courts. On the other hand, a barrister, however inexperienced, may represent clients in the House of Lords.

Being a solicitor does not simply involve **acquiring a knowledge of the theory and practice of the law.** It also requires high standards of conduct and an onerous obligation to the courts. The full title of a solicitor is "Solicitor of the Supreme Court". All solicitors are automatically **officers of the court. They have duties to the court** which sometimes **override** the duties to their clients. For instance, solicitors must not knowingly allow their client to tell lies in the **witness box.** If a client **confesses their guilt** to a solicitor, the solicitor would be committing **an offence** if he or she then called the client **to give evidence** that they were **innocent.**

Many barristers, especially junior barristers, spend much of their time on paperwork, giving opinions, **drafting pleadings** and other documents related to **court proceedings,** but also drafting contracts, **trust deeds** and other formal **legal documents** which are not immediately connected with **litigation.**

A person seeking **to qualify as a solicitor** can become **a trainee** solicitor after three years of university **legal education** and one extra year doing the **legal practice** course. As a trainee solicitor it is possible **to obtain a paid position** even before qualifying.

The young **would-be barrister** has much less chance of earning anything before he qualifies, must then **obtain a seat in chambers** from which he can try to **build up a practice,** knowing that, times will probably be hard for a few years. He has to meet his own expenses, cover his own holidays and buy his own (very expensive) **sick-pay insurance.** In return he gets the satisfaction of wearing a wig, and of being self-employed. Doubtless also, being a barrister still sounds a much more glamorous occupation than being a solicitor.

Notes

legal profession – юридическая профессия
barrister – адвокат, выступающий в суде
solicitor – поверенный
do the court work – выполнять работу в суде
do the office work – выполнять работу в конторе
represent a client at full hearing – представлять клиента на полном слушании
acquiring a knowledge of the theory and practice – приобретение знаний по теории и практике
onerous – обременительный
officer of the court – судебный исполнитель
have duties to the court – иметь обязательства перед судом
override – превышать
witness box – место для дачи свидетельских показаний
confess a guilt – признать вину
offence – правонарушение
give evidence – давать свидетельские показания
innocent – невиновный
draft – составлять проект
pleadings – состязательные бумаги, которыми обмениваются стороны на предварительной стадии судебного процесса
court proceedings – рассмотрение дела в суде
trust deed – акт учреждения доверительной собственности
legal documents – юридические документы
litigation – судебная тяжба
qualify as a solicitor – получить квалификацию поверенного
trainee – практикант
legal education – юридическое образование
legal practice – юридическая практика
obtain a paid position – получить оплачиваемую должность
would-be barrister – стремящийся стать адвокатом
obtain a seat in chambers – получить место в конторе
sick-pay – insurance оплата по болезни
build up a practice – приобрести клиентуру

Упражнения

1. Составьте предложения, используя следующие слова и словосочетания:
a) to commit / a crime / a suicide / a murder
b) to give / evidence/ an opinion/ notice/ time/ the benefit of the doubt
c) to draft / pleadings / contracts / trust deeds / legal documents / a letter to the bank manager / a report

***2. Соотнесите слова в левой колонке с их определением в правой.**

1. to represent a client	a. to give the power, means or right to do something
2. a full hearing	b. a condition that makes it necessary for someone to do something
3. to enable	c. to admit (a fault, crime or smth wrong that one has done)
4. an obligation	d. behavior
5. a conduct	e. a trial of case before a judge at which witnesses are heard
6. to confess	f. to act or speak officially for another person or group of persons
7. to commit	g. to do smth wrong or illegal
8. evidence	h. not guilty of a crime or sin
9. innocent	i. the answers given in a court of law

3. Заполните пропуски в предложениях. Предварительно внимательно прочитайте определения следующих терминов.

legal, lawful, legitimate

Any action which is allowed by law is legal: It's legal for people over 18 to buy alcohol.

Legal also means "connected with the law": the legal profession.

Lawful means "existing according to law" and suggests that the law has moral or religious force: lawful marriage.

Legitimate means "accepted by law, custom or common belief ": the legitimate government

1. She is the..... owner of the property.
2. Is the procedure perfectly .....?
3. The company intends to take..... action.
4. The Crown Prince has a ..... claim to the throne.
5. The defendant applied for ..... aid.
6. Schooling is a ..... requirement for children over five yeas old in Britain and the USA.
7. He was attacked while going about his ..... business.

***4. Соотнесите словосочетания и их английские эквиваленты.**

1. возбудить дело в суде	a. to carry a case
2. обсуждать дело в суде	b. to bring a case
3. проводить судебное дело	c. to drop a case
4. представить дело суду	d. to close a case
5. прекратить дело	e. to initiate a case
6. отказаться от иска, от обвинения	f. to argue a case

5. Ответьте на вопросы.

1. What are the main types of legal profession in Great Britain?
2. What duties to the client and to the court do solicitors have?
3. What kind of paper work do barristers do?
4. What is the usual way for solicitors and barristers to build up a practice?

Text 2

THE AMERICAN LEGAL PROFESSION

The American legal profession, like American law, has it roots in England, but with significant differences. In England, the legal profession is divided between office lawyers, known as solicitors, and courtroom lawyers, known as barristers.

In the United States, there is no division of the profession, and a lawyer frequently does both office work and courtroom work. There is, however, a great deal of variety in the types of f work done by lawyers.

Attorney

Depending upon the circumstances and the needs of the client, the lawyer may be a **counselor, a negotiator,** and/or a **litigator.** In each of these roles, the lawyer will need **to engage in factual investigation.**

With respect to each of these roles, the lawyer will do the following:

Counselor: Attorney will help advise the client how **to order the client's affairs.**

Negotiator: Lawyer will work with opposing counsel to try **to get** a **favorable resolution** for the client. **The art of negotiation involves** many techniques individual to particular attorneys and the circumstances. The client always **retains the right to accept or reject** a settlement negotiated or offered by the opposing party.

Litigator: In litigating, the attorney will help pick a jury and participate in pre-trial **motions.**

Fact Investigator: All of the lawyer's roles require the investigation of **relevant facts,** including **locating** and interviewing witnesses.

A lawyer is to be a zealous advocate of the client, in this respect the lawyer must advocate on the client's behalf and avoid conflicts of interest. The lawyer is also an officer of the court and is required to deal fairly and honestly with the court and with its other officers, including the lawyer's opponents.

Judge

The judge is the final arbiter of the law. The judge is **charged with the duty** to state, as a positive matter, what the law is. In addition, the judge is **to maintain order** in the courtroom.

Judges in federal courts are appointed by the President with the "advice and consent" of the Senate. Many state court judges are elected by popular vote.

Jury

The jury, a group of local citizens, is the fact-finder in most trials. The jury will receive instructions from the judge as to the law, and its members will **assess the facts** as they **perceive** them **in light of the law,** as instructed, **to return a verdict.**

Notes

attorney – поверенный
counselor – адвокат(США)
negotiator – посредник
litigator – сторона в судебном процессе
engage in factual investigation – заниматься фактическим расследованием
order the client's affairs – приводить в порядок дела клиента
get a favorable resolution – добиться благоприятного решения
the art of negotiation – искусство ведения переговоров
retain the right – сохранять право
accept – принимать
reject – отклонять
motion – ходатайство
locate – устанавливать местонахождение
be charged with the duty – иметь обязательства
maintain order – поддерживать порядок
assess the facts – оценивать факты
perceive – понимать, осознавать
in the light of the law – в свете закона
return a verdict – вынести вердикт

Упражнения

6. Образуйте существительные от данных ниже глаголов и переведите их на русский язык.

to negotiate –
to litigate –
to engage –
to oppose –
to assess –
to advise –

7. Заполните пропуски в предложениях, используя существительные и глаголы из упражнения 6.

1. The treaty was the result of long .....
2 . The contract is still under .....

3. There is a strong ..... to new taxes.
4. The lawyers ..... against singing the contract.
5. He gave me some good .....
6. What's your ..... of her chances of winning.
7. It's too early ..... the effects of the new legislation.
8. The president ..... giving military aid to the country.
9. Politicians shouldn't ..... in business affairs that may affect their political judgment.

8. Используя следующие глаголы и существительные, составьте словосочетания, являющиеся юридическими терминами а затем – предложения.

return
give
present
provide
offer
} evidence, testimony, verdict

9. Ответьте на вопросы.

1. What are the main roles of the lawyer in factual investigation?
2. What does the art of negotiation involve?
3. Who are the judges in federal courts appointed by?
4. What are the main functions of the jury?

Text 3

TYPES OF LEGAL PROFESSIONS IN RUSSIA

Lawyers in private practice in Russia work mostly within **colleges of advocates – self-managed cooperative-type organizations.** There are about nineteen thousand advocates in more than one hundred colleges. The highest body of advocates' self-management is the general meeting of a college. The presidium headed by the chairperson is the **executive board** of each college. The presidium is elected by the general meeting for a term of three years.

Colleges of advocates are formed in accordance with territorial subdivisions – in the cities, regions (oblasts), republics or autonomous entities. In its territory any college is represented by law firms or **legal aid offices,** which **render** all regular legal assistance to citizens: advocates counsel people, draft legal documents, represent **plaintiffs** or **defendants** in civil litigation, and provide defense in criminal proceedings.

There are now more and more American-type law firms in Russia functioning separately from colleges of advocates and especially involved in representing private businesses.

Many lawyers are employed by the law offices of enterprises, ministries and agencies as in-house counsel (jurisconsult). These lawyers have all pow-

ers of an attorney, but they represent their single and permanent "client" – their respective organization. There are about twenty thousand of them in Russia, and in view of the economic reform this body is growing.

Of course, many in the legal profession teach or do academic research work. In Russia there are forty institutions of higher education in law (either a law school attached to a university or a separate entity called a "juridical institute"). New private law schools are popping up. There are also separate research centers in law, the most prominent of which is the Institute of State and Law under the Academy of Sciences of Russia.

Notes

college of advocates – *коллегия адвокатов*
self-managed cooperative type organization – независимая общественная организация
executive board – исполнительный комитет
legal aid offices – юридическая консультация
render – предоставлять
in-house counsel – юрисконсульт
plaintiff – истец
defendant – ответчик
juridical – юридический

Упражнения

***10. Соотнесите словосочетания и их английские эквиваленты.**

1. обеспечивать защиту	a. to draft legal documents
2. составлять юридические документы	b. to represent a plaintiff
3. предоставлять юридическую помощь	c. to counsel people
4. представлять истца в суде	d. to provide defense
5. давать рекомендации	e. to render legal assistance

11. Образуйте существительные от следующих глаголов и переведите их на русский язык.

to employ –
to involve –
to represent –
to execute –
to elect –
to provide –
to manage –

12. Заполните пропуски в предложениях, употребив существительные из упражнения 11.

1. This will give ..... to more men.
2. The idea was never put into.....
3. Trade union representatives are chosen by.....
4. The police are investigating his possible ..... in the crime.
5. The number of people in ..... has fallen.
6. The ..... of a new library has been of great benefit to the students
7. "No taxation without ....." means that if people pay taxes they should be in a parliament.
8. The company's failure was mainly due to bad.....

13. Ответьте на вопросы.

1. How is the college of advocates organized?
2. What does the work of advocate involve?
3. Why has the number of in-house counsels increased lately?
4. Why is the legal profession gaining popularity in Russia?

GLOSSARY

advocate – защитник, адвокат
advocacy – адвокатская деятельность
arbiter – арбитр, третейский судья,
argue – доказывать, обсуждать
argument – доказательство по аргументу, дискуссия
assist – способствовать
associate – сообщник, компаньон, чиновник судов общего права
case – случай, судебное дело, спорный вопрос в суде, обвинение, доказательство
argue a case – обсуждать дело
bring a case – возбуждать судебное дело
carry a case – проводить судебное дело
close a case – прекратить дело
drop a case – отказаться от иска
initiate a case – возбуждать судебное дело
chamber – комиссия судей, контора адвоката
charge – обвинять
charge of a crime – обвинять в совершении преступления
college of advocates – коллегия адвокатов
to commit a crime – совершить преступление
confess – признавать, сознаться,
counsel (a client) – советовать, консультировать

counselor – советник, адвокат (Ирландия и США)
court – суд
defend – защищать на суде; защищаться
defendant – ответчик, обвиняемый, подсудимый
deal with – иметь дело с кем-л., с чем-л.
dispute – спор
draft – проект
draft – составить проект
duty – обязанность
employ – нанять на работу
engage – обязывать, заниматься чем-л., нанимать
engagement – обязанность, договоренность
enterprise – предприятие, предпринимательство
evidence – доказательство, свидетельские показания, улика
to give (present / provide) evidence – давать показания
foundation – основание, обоснование, учреждение, фонд
give – давать, предоставлять
give evidence – давать показания
give opinion – выносить решение, давать заключение
give notice – уведомлять
give the benefit of the doubt – истолковывать сомнения в пользу ответной стороны
give time – предоставлять отсрочку
hearing – допрос в суде, слушание
hearsay – показания с чужих слов
innocent – невиновный
investigator – следователь
interpretation – толкование
judge – судья
juridical – юридический, правовой; судебный, судейский
lawful – правомерный, законный
legal – юридический, правовой
legality – законность
legalize – узаконивать, засвидетельствовать
legitimate – законный
litigation – тяжба судебного спора
litigator – сторона в судебном деле
lodge – подавать (заявление, жалобу, прошение)
lodgment – подача прошения
legislative – законодательный
memorandum – меморандум
meeting – собрание

motion – ходатайство
negotiate – вести переговоры
negotiation – переговоры
negotiator – лицо, ведущее переговоры
object – возражать
objection – возражение
obtain – получать, приобретать
oppose – возражать
opposition – возражение
plaintiff – истец
practice – практика; обычай
proceedings – рассмотрение дела в суде, судебное разбирательство
promote – способствовать, содействовать
promotion – повышение в должности
position – должность
hold a position – занять должность
pursue – проводить (политику)
qualify as/ for – отвечать требованиям
render – представлять, предоставлять
represent – представлять; сообщать, заявлять
require – требовать
requirement – требование; необходимое условие
resolution – резолюция; разрешение спора, решение
restrict – ограничивать
ruling – постановление; решение суда
seek – искать, добиваться
seek rights of advocacy – требовать права защиты
settlement – урегулирование
trainee – практикант
trier – лицо, рассматривающее юридические вопросы
testify – давать показания; быть свидетелем
testimony – свидетельские показания
training – обучение
umpire – арбитр
verdict – решение присяжных, вердикт
take/ reach verdict – выносить вердикт
witness – свидетель; свидетельство, свидетельские показания

Ключи

2. 1f; 2e; 3a; 4b; 5d; 6c; 7g; 8i; 9h
4. 1e; 2f; 3a; 4b; 5c; 6d
10. 1d; 2a; 3e; 4b; 5c

UNIT TWO
Constitutional Law

The UK

Text 1

DEFINITION AND SCOPE OF CONSTITUTIONAL LAW

The starting-point for studying constitutional law should ideally be the same starting-point as for studying political philosophy, or the role of law and government in society. How is individual freedom to **be reconciled with** the claims of social justice? Is society founded upon a **reciprocal network** of rights and duties, or is the individual merely a **pawn in the hands of state power**?

These fundamental questions **are** often not **pursued explicitly** in the study of constitutional law. Constitutional law concerns the relationship between the individual and the state. As a historian has stated, law is not **merely** a matter of the rules which govern relations between private individuals (for example between husband and wife, or between landlord and tenant). Law also concerns the structure and powers of the state. The constitutional lawyer is always likely to insist that the relations between the individual and the state should be founded upon and governed by law.

But law does not exist in a social and political vacuum. Within a given society, the legal rules that concern relations between husband and wife will reflect that society's attitude to marriage. So too the rules of constitutional law, that **govern political relations**, will within a given society **reflect** a **particular distribution of political power**. In a stable society, constitutional law expresses what may be a **very high degree of consensus** about the organs and procedures by which political decisions are taken.

Within a stable democracy, constitutional law reflects the value that people **attach to orderly human relations**, to **individual freedom under the law**, and to institutions such as parliament, political parties, free elections, and free press. Laws are the product of human decisions. As Lord Acton said, "Power tends to corrupt and absolute power tends to corrupt absolutely". But the **weaknesses and imperfections of human nature** are not a **reason for discarding law** as a **means of regulating political conduct**. The laws of football are often broken. But if we shoot the referee and **tear up the rules**, football as an organized activity **ceases to exist.**

Total disbelief in the value of the individual or in the possibility of public good is therefore a bad starting-point for studying constitutional law. But there is no need to go to the other extreme that in Great Britain we have a **matchless constitution**. Constitutional law is **one branch of human learning** and experience that helps to **make life** in today's world **more tolerable and less brutish** than it might otherwise be.

Notes

be reconciled with – быть согласованным с
reciprocal network – взаимная (двусторонняя) связь
pawn in the hands of state power – залог в руках государственной власти
be pursued explicitly – проводиться ясно
apply logical criteria – применять логические критерии
within a given society – в пределах (в рамках) данного общества
merely – просто, только
govern political relations – управлять политическими отношениями
reflect a particular distribution of political power – отражать определенное разделение политической власти
very high degree of consensus – очень высокий уровень согласия
attach to orderly human relations – распространяться на упорядоченные (организованные) человеческие отношения
individual freedom under the law – свобода личности по закону
weaknesses and imperfections of human nature – слабости и недостатки человеческой натуры
reason for discarding law – основание для отступления от закона
means of regulating political conduct – способ регулирования политического поведения
tear up the rules – нарушать правила
cease to exist – прекратить существование
total disbelief in the value of the individual or in the possibility of public good – полное неверие в ценность личности или в возможность общественного добра
matchless constitution – неподходящая конституция
one branch of human learning and experience – одна ветвь человеческого знания и опыта
make life more tolerable and less brutish – сделать жизнь более терпимой и менее жестокой

Упражнения

***1. Соотнесите слова в левой колонке с их определениями в правой.**

1. rule	a. operating for both (equally or to a similar degree)
2. reciprocal	b. to adjust the way you think about (a fact or situation that is opposed to another fact or situation so that you can accept both)
3. reconcile	
4. society	
5. matchless	c. a system in which people live together in organized communities
6. experience	

7. imperfection	d. a legal principle
8. tolerable	e. weak point
9. cease	f. stop an action or condition
	g. not of a standard or quality that cannot be equaled
	h. of a quality that is acceptable but not wonderful
	i. the process of getting knowledge or skill

2. Составьте предложения, используя данные слова и словосочетания.

concern the relationship between the individual and the state; govern political relations; within a given society; reflect a particular distribution of political power; a very high degree of consensus about the organs and procedures; be governed by law; constitutional lawyer; political parties; organized activity; public good

3. Найдите в тексте словосочетания с данными юридическими терминами.

freedom; power; lawyer; rules; relations; law; society; decisions, elections, claim, conduct

***4. Соотнесите словосочетания и их английские эквиваленты.**

1. требования социальной справедливости	a. rules of constitutional law
	b. claims of social justice
2. структура и полномочия государства	c. attitude to marriage
	d. structure and powers of the state
3. принять политические решения	e. take political decisions
4. нормы конституционного права	
5. отношение к браку	

5. Выразите согласие или несогласие с данными утверждениями.

1. Law is a matter of rules which govern relations between private individuals.
2. Law exists in a social and political vacuum.
3. The laws of football are rarely broken.
4. Constitutional law is one branch of human learning.
5. Constitutional law reflects the value that people attach to orderly human relations.

6. Ответьте на вопросы.

1. What is constitutional law based on?
2. How can law be defined?
3. What is the main principle of a constitutional lawyer?
2. How does law reflect the life of a given society?

5. In which way does constitutional law act in a stable society?
6. What does constitutional law reflect in a stable democracy?
3. How can we define constitutional law?
4. How are laws made?

Text 2

WHAT IS CONSTITUTIONAL LAW?

There is no hard and fast definition of constitutional law. According to one very wide definition, constitutional law is that part of the law which relates to the system of government of the country. It is more useful to define constitutional law as meaning those laws which regulate the structure of the principal organs of government and their relationship to each other and to the citizen, and **determine their main functions**. Where there is a written constitution, **emphasis is placed on** the rules which it contains and on the way in which they have been interpreted by the highest court with constitutional jurisdiction. It is increasingly recognised that in most branches of law the purpose and operation of legal rules can be understood only with a knowledge of the social background against which the legal rules operate: legal procedures for **the resolution of disputes** arising within a family, a trade union or a limited company are an incomplete guide to the role of these institutions in society.

A further problem of definition is that, unlike legal system in which law is divided up into a series of codes, there is no hard and fast demarcation in Britain between constitutional law and other branches of law. For example, in the field of family law, important protection for family life is given by the European Convention on Human Rights, and family status is an important basis for many rules of immigration control. Numerous **civil liberty issues** arise out of criminal law and procedure. In property law, public control of private rights is a fertile field for the emergence of disputes involving a **clash between public and private interests**. These examples are not meant to suggest that constitutional law **comprehends the whole of the legal system**, but that the functioning of the legal system **is of direct concern to constitutional law**.

Notes

determine the main functions – определять основные функции
emphasis is placed on – особое внимание уделяется
the resolution of disputes – решение споров
civil liberty issues – вопросы гражданских свобод
clash between public and private interests – конфликт (противоречие) между общественными и частными интересами

comprehend the whole of the legal system – охватывать всю законодательную систему
be of direct concern to constitutional law – непосредственно подпадать под действие конституционного права

Упражнения

***7. Соотнесите слова в левой колонке с их определениями в правой.**

1. resolution	a. special attention given to something because it is important
2. peculiar	b. to find out or make certain (facts or information)
3. emphasis	c. a formal statement of decision or opinion
4. concern	d. unusual and strange
5. clash	e. disagreement, conflict
6. determine	f. a worried feeling or a state of anxiety

8. Найдите в тексте словосочетания со следующими юридическими терминами.
law, government, jurisdiction, procedures, codes, control, system, rights

9. Составьте предложения, используя данные слова и словосочетания.
definition; principal organs; relationship; to be interrupted by; legal rules; to be divided into

10. Выразите согласие или несогласие с данными утверждениями.
1. Constitutional law relates to the system of economic relations.
2. Important protection of family life is given by the European convention on Human Rights.
3. The functioning of the legal system is of no concern to Constitutional law.

11. Ответьте на вопросы.
1. How is it possible to define Constitutional Law?
2. Which problems occur while defining Constitutional Law in the UK?
3. In which way is family protection given?
4. Which liberty issues arise out of criminal law and procedure?

Text 3

LEGAL CONSEQUENCES OF THE UNWRITTEN CONSTITUTION

Where there is a written constitution, the legal structure of government may **assume a wide variety of forms**. Within a federal constitution, the tasks of government are divided into two classes, those **entrusted to the federal (or central) organs of government**, and those entrusted to the

various states, regions or provinces which make up the federation. Thus in countries such as Canada, Australia or the United States, constitutional limits **bind both the federal and state organs of government**, which limits are **enforceable as a matter of law**. Many written constitutions **seek to avoid a concentration of power** in the hands of any one organ of government by **adopting the principle of separation of power**, **vesting legislative power exclusively in the legislature**, executive power in the executive and judicial power in the courts.

Within the United Kingdom, there is no written constitution which can **secure these objects** or which can serve as fundamental law. In the absence of a constitution to serve as the foundation of the legal system, the vacuum is filled by the **legal doctrine of the legislative supremacy of Parliament**. The full significance of this doctrine will be examined later, but the result in that formal restraints upon the exercise of power which exist elsewhere do not exist in the United Kingdom. For example, no truly federal system can exist so long as Parliament's legislative supremacy is maintained. For a federal system to be established a written constitution would be necessary, limiting the powers of the Westminster Parliament and thus preventing it from taking back the devolved powers into its own hands. Of course, if subordinate legislatures were to be established for Scotland and Wales, it might be politically difficult to abolish them; but their continued existence would **be safeguarded by political factors** rather than by constitutional law.

The absence of a written constitution has a sharp effect upon the sources of constitutional law. Instead of the constitution being the formal source of all constitutional law, much greater **importance attaches to** Acts of Parliament and also to judicial decisions, which settle the law on matters such as police powers that have never been the subject of comprehensive legislation. Some major institutions, like the Cabinet, do not derive their authority from the law; many important constitutional rules are not rules of law at all. To summarise, the absence of a written constitution means that the British constitution **depends far less on legal rules and safeguards** and **relies much more upon political and democratic principles**.

Notes

assume a wide variety of forms – допускать (предполагать) самые разнообразные формы

entrust to the federal government – возлагать на федеральное правительство

bind both the federal and state organs of government – связывать обязательством федеральные органы власти и органы власти штатов

enforceable as a matter of law – обеспеченный правовой санкцией

seek to avoid a concentration of power – стараться избегать концентрации власти

adopt a principle of separation of powers – принять принцип разделения властей

vest legislative power exclusively in the legislature – наделять законодательной властью исключительно законодательные органы власти

render them unalterable – сделать их неизменяемыми

secure these objects – сохранить эти объекты

legal doctrine of the legislative supremacy of Parliament – правовая доктрина законодательного верховенства парламента

be safeguarded by the political factors – быть под защитой политических факторов

attach importance to – придавать значение

depend far less on legal rules and safeguards – гораздо меньше зависеть от правовых норм и гарантий

rely much more upon political and democratic and democratic principles – гораздо больше полагаться на политические демократические принципы

Упражнения

***12. Соотнесите словосочетания и их английские эквиваленты.**

1. связывать обязательством федеральные органы и органы власти штатов	a. to limit the powers
2. доктрина превосходства закона	b. absence of a written constitution
3. ограничить власть (полномочия)	c. doctrine of the legislative supremacy
4. отсутствие написанной конституции	d. to bind the federal and state organs of government

***13. Соотнесите слова в левой колонке с их определениями в правой.**

1. confirm	a. to have a good opinion of someone or something
2. approve	b. to approve officially by formal agreement
3. safeguard	c. to pay a great attention to
4. attach importance to	d. protection

14. Выразите согласие или несогласие с данными утверждениями.

1. Many written constitutions fail to avoid a concentration of power.
2. The vacuum is filled by the legal doctrine of the legislative supremacy of Parliament.
3. The absence of a written constitution doesn't affect the sources of constitutional law.

15. Ответьте на вопросы.

1. Which forms may the legal structure assume?
2. What is important to avoid for countries with written constitutions?
3. What is the vacuum of written constitution filled by?
4. Which disadvantages of not having a written constitution can you point out?
5. How does the absence of a written constitution affect constitutional law and its sources?

The USA

Text 4

THE CONSTITUTION AS SUPREME LAW

The U.S. Constitution calls itself the "supreme law of the land." This clause is taken to mean that when state constitutions or **laws passed by state legislatures** or the national Congress are found to conflict with the federal Constitution, they have no force.

Final authority is vested in the American people, who can change the fundamental law, if they wish, by **amending the Constitution**. The people do not **exercise their authority directly**, however. They delegate the day-to-day business of government to public officials, both elected and appointed.

The power of public officials is limited. Their public actions must **conform to the Constitution** and to the laws made in accord with the Constitution. Elected officials must **stand for re-election** at periodic intervals. Appointed officials serve at the pleasure of the person or authority who appointed them, and may **be removed** when their performance is unsatisfactory. The exception to this practice is the lifetime appointment by the president of justices of the Supreme Court and other federal judges, so that they may be **free of political obligations or influence**.

Most commonly, the American people express their will through the ballot box. The Constitution, however, does **make provision for the removal of a public official** from office, **in cases of extreme misconduct**, by the process of impeachment. Article II. Section 4 reads:

The President, Vice President, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and ***misdemeanors****.*

Impeachment is a charge of misconduct brought against a government official by a legislative body: it does not, as is commonly thought, refer to conviction on such charges. The House of Representatives must bring charges of misconduct by voting a bill of impeachment. The accused official is then tried in the Senate, with the chief justice of the Supreme Court presiding at the trial.

Impeachment has been used on only rare occasions in the Unites States. The House of Representatives has voted articles of impeachment just 17 times in the history of the country. Thirteen of the 17 persons who have been impeached were federal judges, as were all seven individuals convicted by the Senate.

Notes

laws passed by state legislatures – законы, принятые легислатурой штата (законодательными органами)

final authority – окончательное судебное решение

be vested – переходить (передаваться) во владение
amend the Constitution – вносить поправки в конституцию
exercise one's authority directly – прямо (непосредственно) осуществлять власть
conform to the constitution – соответствовать конституции
stand for re-election – выступать за переизбрание
be removed – быть смещенным
free of political obligations or influence – свободные от политических обязательств или влияния
make provision for the removal of a public official – создать условия для смещения официального лица
in cases of extreme misconduct – в случаях серьезного нарушения служебных обязанностей
misdemeanor – мисдиминор (категория наименее опасных преступлений)

Упражнения

***16. Соотнесите слова в левой колонке с их определениями в правой.**

1. draft
2. conform to
3. be vested
4. provision
5. misconduct
6. amend

a. to be given control over something or the power to do something
b. to change the words of a law or a legal document
c. a piece of writing that is done early to help prepare it in its final form
d. wrong or immoral behavior of someone in a position of authority or responsibility
e. the act of considering the need for something and arranging for it
f. to behave according to a group's usual standards and expectations

17. Составьте предложения, используя данные словосочетания.
passed by state legislatures; change the fundamental law; public officials, both elected and appointed; be limited; in accord with Constitution; lifetime appointment; remove from office; impeachment; bring charges of misconduct

18. Найдите в тексте словосочетания с данными юридическими терминами.
federal, supremacy, fundamental, authority, appointment, official, impeachment, trial, conviction

19. Выразите согласие или несогласие с данными утверждениями.

1. The people exercise their political authority directly.
2. Justices of the Supreme Court may be free of political obligations or influence.
3. Impeachment is a charge of misconduct brought against a justice of the Supreme Court.
4. The accused official is then tried in the Senate.

20. Ответьте на вопросы.

1. What does the statement "supreme law of the land" mean?
2. How do American people exercise their authority?
3. How is the power of public officials limited?
4. What does "impeachment" mean and when is this measure taken?

Text 5

THE LAWMAKING PROCESS

One of the major characteristics of the Congress is the dominant role committees play in its proceedings. Committees have **assumed their present-day importance by evolution,** not **by constitutional design,** since the Constitution **makes no provision for their establishment.**

At present the Senate has 16 standing (or permanent) committees; the House of Representatives has 22. Each specializes in specific areas of legislation: foreign affairs, defense, banking, agriculture, commerce, **appropriations** and other fields. Every bill introduced in either house **is referred to** a committee for study and recommendation. The committee may approve, revise, kill or ignore any measure referred to it. It is nearly impossible for a bill to reach the House or Senate floor without first winning committee approval. In the House, a petition **to discharge a bill from a committee** requires the signatures of 218 members; in the Senate, a majority of all members is required. In practice, such discharge motions only rarely receive the required support.

The majority party in each house controls the committee process. Committee chairmen **are selected by a caucus of party members** or specially designated groups of members. Minority parties are proportionally represented on the committees according to their strength in each house.

Bills are introduced by a variety of methods. Some **are drawn up by standing committees;** some by special committees created to **deal with specific legislative issues;** and some may be suggested by the president or other executive officers. Citizens and organizations outside the Congress may suggest legislation to members, and individual members themselves may initiate bills. After introduction, bills are sent to **designated committees** which, in most cases, schedule a series of public hearings to permit presentation of views by persons who **support or oppose the legislation.** The hearing process, which can last several weeks or months, opens the legislative process to public participation.

Notes

play the dominant role – играть ведущую роль
assume the present day importance by evolution – осознать своевременность в развитии
by constitutional design – соответствующий конституции
make no provision for their establishment – не создать условия для их сохранения
appropriation – конфискация; присвоение; ассигнование
be referred to – быть связанным с
refer to – ссылаться на
discharge a bill from a committee – отозвать закон из комитета
be selected by a caucus of party members – избираться кокусом членов партии
caucus – совещание членов легистратуры, принадлежащих к одной партии
be drawn up by standing committees – разрабатываться постоянно действующими комитетами
deal with specific legislative issues – заниматься отдельными правовыми вопросами
designated committees – назначенные комитеты
support (to oppose) the legislation – поддерживать (выступать против) закон(а), законодательную(ой) инициативу(ы)

Упражнения

***21. Соотнесите слова в левой колонке с их определениями в правой.**

1. approval	a. the act of considering the need for something and arranging for it.
2. provision	b. to look at (something) for information or help
3. area	c. a good opinion of someone or something
4. refer to	d. a particular subject or activity
5. adjust	e. to organize and direct (a particular activity)
6. caucus	f. to change something slightly to make it fit, work better or be more suitable
7. conduct	g. a meeting of the people who run a political party to plan activities and to decide which people will support in an election; a group of people within a larger organ

22. Составьте предложения, используя следующие выражения.
by constitutional design; be referred to as a committee; majority of all members; be selected by; be proportionally represented; variety of methods; deal with specific legislative issues; hearing process

23. Найдите в тексте словосочетания с данными юридическими терминами.

executive, committees, approval, bill, legislative, legislation

24. Выразите согласие или несогласие с данными утверждениями.

1. It is quite possible for a bill to reach the House or Senate.
2. Minority parties are proportionally represented on the committees.
3. The hearing process can last several days.
4. Bills are introduced by only one method.

25. Ответьте на вопросы.

1. What are the most important responsibilities of the House of Representatives and its committees?
2. What is the role of the majority party?
3. Who can bills be suggested by?
4. How can you explain the advantages of the committee system?

Text 6

ELECTIONS

American citizens who are at least 18 years of age have the right to vote. They must, however, register as voters in order to be able to exercise this right. Each state has the right to **determine registration procedures**.

There is some concern, however, about the number of citizens who could vote in national elections but do not. In the national election of 1988, for instance, only 57,4 percent of all those who could have voted actually did, and in 1992, 61,3 percent. But then, Americans who want to vote must register, that is put down their names in a register before the actual elections take place. There are 50 different **registration laws** in the U.S.

Another important factor is that there are many more elections in the U.S. at the state and local levels than there are in most countries. If the number of those who vote in these elections (deciding, for example, if they should pay more taxes so a new main street bridge can be built) were included, the percentage in fact would not be that much different from other countries. Certainly, Americans are much more interested in local politics than in those at the federal level. Many of the most important decisions, such as those concerning education, housing, taxes, and so on, are made close to home, in the state or county.

The national Presidential elections really consist of two separate campaigns. One is for the **nomination of candidates** at national party conventions. The other is to win the actual elections. The nominating race is a competition between members of the same party. They run in a succession of state primaries and caucuses (which take place between March and June). They hope to gain a majority of delegate votes for their national party

conventions (in July or August). The party convention then votes to **select the party's official candidate for the presidency**. Then follow several months of Presidential campaigns by the candidates.

These primaries have some advantages, each of fundamental importance to democracy in the United States. They help to prevent a few party leaders from choosing the candidates. Anyone can run in the primaries, and anyone who wants to be nominated must run.

In November of the election year, the voters across the nation **go to the polls**. If the majority of the popular votes in a state go to the Presidential (and Vice-Presidential) candidate of one party, then that person is supposed to get all of **that state's "electoral votes"**. These electoral votes are equal to the number of Senators and Representatives each state has in Congress. The candidate with the largest number of these electoral votes wins the election. Each state's electoral votes are formally reported by the **"Electoral College"**. In January of the following year, in a joint session of Congress, the new President and Vice-President are officially announced.

Notes

determine registration procedures – определять процедуры регистрации
registration laws – законы регистрации
nomination of candidates – выдвижение кандидатов
select the party's official candidate for the presidency – избрать официального кандидата от партии для участия в президентских выборах
go to the polls – идти к избирательным участкам
that state's "electoral votes" – "голоса выборщиков" того штата
"Electoral College" – коллегия выборщиков

Упражнения

***26. Соотнесите слова в левой колонке с их определениями в правой.**

1. convention	a. a formal indication of one's choice between two or more people
2. primaries	b. to select or appoint as one's representative
3. campaign	c. a conference of members of a political party
4. election	d. series of planned activities with a particular social aim
5. vote	e. election in which people in certain states vote to select party candidates
6. nominate	f. the action of choosing one or more candidates for a political office

27. Найдите в тексте словосочетания с данными юридическими терминами.

vote, registration, elections, federal, candidates, primaries, convention, voters, electoral

28. Составьте предложения, используя данные слова и словосочетания.

national presidential elections; local politics; presidential campaign; of fundamental importance; equal to; electoral votes; gain a majority

29. Выразите согласие или несогласие с данными утверждениями.

1. American citizens who are 21 years of age have the right to vote.
2. There are 40 different registration laws in the US.
3. Many of the most important decisions are made close to home in the state or county.
4. The primaries have some disadvantages.

30. Ответьте на вопросы.

1. What are some specific features of US elections?
2. How do you understand the term "electoral college"?
3. Who elects official candidates for presidency?
4. Why are the primaries of fundamental importance to democracy?

GLOSSARY

abolish – отменять, аннулировать, упразднять
abuse – злоупотреблять; подвергать нападкам
accord – согласие, соглашение
accord – соглашаться, предоставлять
accordance – согласие, соответствие
in accordance with – в соответствии с
accuse – обвинять, предъявлять официальное обвинение
adopt – принимать (закон); усыновлять
amend – вносить поправки, дополнения (в конституцию, закон и пр.)
approval – одобрение
appropriation – обращение в свою собственность; конфискация, присвоение
assume – принимать на себя (ответственность, обязанность, риск, власть
authority – власть, полномочие; орган власти; источник права; закон; прецедент, судебное решение; доказательство, основание
bind – обязывать, связывать обязательством; ограничивать, задерживать

bind the federal and state organs of government – сдерживать федеральные органы и органы власти штата
body – орган, организация; группа, коллегия; главная часть; совокупность, комплекс
body of rules and procedures – комплекс правил и процедур
branch – отделение, филиал; ветвь; отрасль; власть
executive branch – исполнительная власть
judicial branch – судебная власть
concern – дело, участие, интерес, забота
be of direct concern to constitutional law – иметь непосредственное отношение к конституционному праву
clash – столкновение; противоречие, конфликт
clash between public and private issues – конфликт (противоречие между общественными и частными вопросами)
claim – требование; иск, претензия
caucus – кокус (совещание членов легистратуры, принадлежащих к одной партии)
civil – гражданский; гражданско-правовой; штатский, невоенный
civil liberty issues – вопросы гражданских свобод
consensus – (всеобщее) согласие, единодушие, консенсус; согласованность
very high degree of consensus – очень высокая степень согласия
conduct – поведение; руководство, ведение
means of regulating political conduct – средство управления политикой, руководство; средство регулирования политического руководства(поведения)
comprehend – постигать; охватывать
comprehensive – объемлющий; исчерпывающий
complex and comprehensive system of government – сложная и исчерпывающая система власти
convict – осудить (признать виновным); осуждать на длительный срок тюремного заключения
devolve – передавать; переходить
devolve on – переходить к другому лицу (о праве, обязанности, должности, правовом титуле)
devolve limited powers of self-government – передавать ограниченные полномочия само управления
disclose statutory violations – раскрыть статутные нарушения
design – намерение, умысел, заведомость; дизайн, промышленная модель
by constitutional design – в соответствии с конституцией
be designed for – предназначаться

effect – следствие; результат; влияние; последствие; юридическое действие; сила; содержание, существо
in effect – действующий (о законе, документе)
elect – избирать, выбирать; решать; предпочитать
elector – избиратель; выборщик, член коллегии выборщиков президента и вице-президента США); лицо, осуществляющее право выбора
electoral college – коллегия выборщиков
ensure – обеспечивать
ensure the smooth working of a system – обеспечить плавную работу системы
evolve – развиваться; эволюционировать
evolve a wide variety of customary rules and practices – ввести обычные правила и нормы различного типа
entrust – вверять; возлагать, поручать
entrust to the federal government – поручать федеральному правительству
emphasis – выразительность; ударение; акцент
emphasis is placed on – особо подчеркивается
executive – исполнительный
exclusive – исключительный, единственный
exclusively – исключительно
function – функция; обязанность
the main functions – основные функции
freedom – свобода
federal – федеральный; союзный
federation – федерация; объединение без юридического лица
fundamental – основной; существенный
govern – управлять, руководить регулировать, регламентировать
govern political relations – регулировать политические отношения
government – управление, руководство, регулирование, государственная власть (устройство), государственное управление, правительство
constitutional government – конституционное правительство конституционная форма правления
self-government – самоуправление
influence – влиять; влияние
individual – отдельное лицо, личность, индивид, физическое лицо
individual freedom – личный, индивидуальный, отдельный свобода личности, личная свобода
impeach – оспаривать; обвинять (гражданское должностное лицо) в ненадлежащем исполнении обязанностей

impeachment – оспаривание; изъявление сомнения, дискредитация импичмент (процедура привлечения к ответственности высших гражданских должностных лиц

judge – судья

justice – справедливость, правосудие, юстиция, судья

associate justice – член суда

chief justice – главный судья

judiciary – суд, судебная власть; судебная система; судоустройство; лица судебной профессии

law – право (в объективном смысле); закон; общее право; судебная процедура; юстиция; юристы

legislator – законодатель, член законодательного органа

legislature – законодательная власть; законодательный орган; легистратура

elect the legislature – избирать законодательный орган

legislation – законодательство; законодательный акт; закон; законодательная деятельность

legislative – законодательный

special legislative procedure – специальная законодательная процедура

legislative supremacy – верховенство закона

liberty – свобода

civil liberty issues – привилегия; право, вопросы гражданских свобод

name – предлагать кандидатуру

name federal judges – предложить кандидатуры в федеральные судьи

nominate – назначать; выдвигать

nominate candidates – выдвигать; предлагать кандидатуры (на должность)

nomination – назначение; выдвижение; предложение кандидата (на должность)

official – должностное лицо, служащий, чиновник

official government – правительственный чиновник

pawn – залог, заложенная вещь

pawn in the hands of state power – залог в руках власти штата (государства)

power – способность; право; правомочие, полномочие; компетенция; власть; держава

procedure – процедура; порядок; судопроизводство; процесс

protect – защищать, охранять; покровительствовать

practice – практика; обычай; нормы процесса, процессуальное право

political practice – политическая практика; судебная процедура

provision – условие; постановление, положение (договора, закона) снабжение, обеспечение, предоставление

reciprocal – взаимный; двусторонний
reciprocal network – двусторонняя сеть
reconcile – согласовывать
be reconciled with – быть согласованным с
reflect – отражать; ограждать, размышлять
register – регистрировать, заносить в книгу регистраций
registration – регистрация; введение в список
regulate political conduct – регламентировать политическое поведение
require – требовать
requirement – требование
resolution – резолюция, решение, разрешение (спора)
run – выставлять кандидатуру, баллотироваться
safeguard – охрана, предосторожность, защита
supervise – наблюдать; осуществлять надзор над чем-л.
separation – отделение; разделение
subject – предмет; субъект
trial – судебное разбирательство; судебный процесс; слушание дела по существу
vacuum – вакуум
political vacuum – политический вакуум
vest – облекать, наделять
vest legislative power – принадлежать (о правах власти) наделять законодательной властью
viewpoint – точка зрения
volunteer – волонтер, доброволец, лицо, действующее по доброй воле
vote – голосовать, решать голосованием
vote – голос; право голоса
voter – избиратель; лицо, имеющее право голоса
voter registration – регистрация избирателей
voting – голосование; участие в голосовании

Ключи

1. 1d; 2a; 3b; 4c; 5g; 6i; 7e; 8h; 9f
4. 1b; 2d; 3e; 4a; 5c
7. 1c; 2d; 3a; 4f; 5e; 6b
12. 1d; 2c; 3a; 4b
13. 1b; 2a; 3d; 4c
16. 1c; 2f; 3a; 4e; 5d; 6b
21. 1c; 2a; 3d; 4b; 5f; 6g; 7e
26. 1c; 2e; 3d; 4a; 5f; 6b

UNIT THREE

Land Law in Britain

Text 1

LAND LAW

Land law is a fascinating and challenging subject for land is vital for human life. In any society the **use of land** is of the utmost importance. Land law is about how people **share land** and it is made up of rules in **statutes** and cases; **case law** rules are divided into **legal** and **equitable rules**. Most land law statutes in Britain are dated 1925. The aim of the 1925 **legislation** was to make buying and selling land simpler to revive the **depressed market in land**.

"Land" means the physical land and **fixtures** and includes any **interest in land**. It can be used by a number of people in different ways: one can **invest money in a plot**, while two or more live there. Land can be **shared consecutively**: people can **enjoy the land** one after another.

Each society develops its own cultural attitudes to land. These attitudes are coloured by the kind of land (for example, desert or jungle) because this determines the uses of it. In early English land law, the **fundamental concept** was **"seisin"**. Then the concepts of ownership and **possession took over**. British land law has been developing alongside the growth of capitalism and city-living. More recently there has been an enormous increase in the **ownership** of land by ordinary people. In the 1960s and 70s there were **booming prices** in most arias of the country and a greater interest in the security of "non-owners". The falling market of the early 1990s produced the situation favourable for the **building societies** and banks.

Notes

land law – земельное право
use of land – использование земли
share land – совместно владеть землей
statute – статут; закон, законодательный акт
case law – прецедентное право
legal rules – правовая норма
equitable rules – норма права справедливости
legislation – законодательство, законодательный акт
fixture – движимость, соединенная с недвижимостью; постоянная принадлежность недвижимости
interest in land – право в недвижимости
depressed market in land – пониженный спрос на землю
invest money in a plot – вложить деньги в земельный участок

share land consecutively – пользоваться землей поочередно, один за другим
enjoy land – пользоваться землей
determine – определять
the fundamental concept – основная концепция
selsin – владение недвижимостью (без ограничительных условий)
possession – право обладания, владения
take over – одержать верх
ownership – право собственности
booming prices – быстрорастущие цены
building society – строительное кооперативное товарищество

Упражнения

***1. Укажите, в каком из приведенный значений данное слово употребляется в тексте.**

1. share	a. распределять b. совместно владеть c. разделять (мнение, вкусы)
2. cases	a. случай b. пациент c. прецедент
3. interest	a. право b. интерес c. процентный доход
4. enjoy	a. пользоваться b. получать удовольствие c. присоединяться
5. ownership	a. владение b. собственность c. право собственности
6. market	a. рынок b. спрос c. торговать

***2. Соотнесите слова в левой колонке с их определениями в правой.**

1. challenging	a. law passed by legislative body
2. a statute	b. laws
3. legislation	c. low demand
4. the fundamental concept	d. holding of property

5. possession	e. demanding or difficult
6. depressed market	f. main principle

***3. Найдите в тексте английские эквиваленты данных словосочетаний.**

1. правовые нормы; 2. прецедентное право; 3. право в недвижимости; 4. принцип права неограниченного обладания землей; 5. законодательство

***4. Выразите согласие или несогласие с данными утверждениями.**

1. All societies have similar approach to the use of land.
2. In Britain land law is regulated by the Constitution.
3. "Land" in law means not only the physical land but also buildings on it and any rights to it.
4. Land law in Britain has been developing alongside the economic development.

5. Ответьте на вопросы.

1. What are the rules Land law is made up of?
2. What is the aim of the 1925 legislation?
3. What does the term "land" mean?
4. Why are attitudes to land different in different societies?
5. What are the main concepts of enjoyment of land in English land law?
6. How has British land law been developing?

Text 2

INTERESTS IN LAND

The land law can seem **obscure** and is often distanced from real life by historical introductions. Lawyers' history tends to vary a lot and is often coloured by unspoken political opinions. Lawyers are concerned with various rights to land, called "interests in land". They might talk about someone "owning land", but really they mean someone owning an interest in the land. These interests are not the land itself, the earth and the buildings, but abstract concepts, like the **fee simple** and the **lease**. The term "interests in land" is **significant** to land lawyers because it shows that the rights and duties of the **people concerned** are not merely personal or **contractual**. These rights and duties **are "glued"** to the land itself and automatically pass to anyone who buys or **inherits** the land; they can therefore be **transferred** to other people and **bind** parties.

In lawyers' vocabulary, interests in land are **property**. The land lawyer **views** every piece of land as potentially fragmented into a number of interests. The major interests are called the **estates**. The word "estate" means "an interest in land of some particular **duration**". There are now two estates -- the **freehold** and the **leasehold** (and the third, called **commonhold** may be introduced).

There are many **legal interests in land** and many **equitable interests**. The **court of law** recognized various estates and interests in land and would **enforce** the rights of a legal owner; **the courts of equity** might **override** this in favour of a person with a stronger moral right to the land. There are two main reasons why it is important to **label** interests as "legal" and "equitable". The first is that equitable interests depend on **equitable remedies** and these depend on the court's direction: the court of equity only **grants a remedy** if the **claimant** has **behaved fairly**. Legal remedies on the other hand (**damages**, for example), are available **"as of right"**; **a plaintiff** is entitled to damages if her strict legal rights have been **infringed**, whether or not this is fair.

Notes

obscure – неясный, непонятный, невразумительный
fee simple (absolute) – *юр.* безусловное право собственности
lease – *юр.* наем недвижимости, жилищный наем, аренда
lease – сдавать или брать в наем
significant – значительный, важный, существенный
people concerned – заинтересованные стороны
contractual – договорный
be glued – быть неотрывно связанным с чем-л.
inherit – наследовать
transfer – передавать имущество; предавать права собственности и обязательства
bind – обязывать, связывать обязательством
property – собственность, право собственности
view – рассматривать, оценивать, судить (о чем-л.)
estate – вещно-правовой титул; право вещного характера; вещно-правовой интерес
duration – период; срок действия договора; срок полномочий
freehold – фригольд, безусловное право собственности на недвижимость
leasehold – владение на правах аренды; арендованная собственность
commonhold – публичное право (на пользование землей), общее право собственности
legal interests in land – юридическое право в недвижимости
equitable interests – право в недвижимости, регулируемое правом справедливости
enforce – обеспечивать соблюдение, исполнение; принуждать; взыскивать в судебном порядке
court of law – суд, действующий по нормам статутного или общего права

court of equity – суд системы "права справедливости"
override – действовать вопреки чему-л; лишать юридического действия; иметь преимущественное юридическое действие; отвергать, не принимать во внимание
label – относить к какой-либо категории
equitable remedies – средства судебной защиты по праву справедливости
grant a remedy – предоставлять средство правовой защиты
claimant – лицо, предъявляющее право, претензию или требование; истец
behave fairly – поступать по справедливости
damages – возмещение убытков, убытки
as of right – по (неотъемлемому) праву
plaintiff – истец
infringe – нарушать (закон, право, нормы)

Упражнения

***6. Укажите, в каком из приведенных значений данное слово употребляется в тексте.**

1. damages
   a. дефекты
   b. повреждения
   c. возмещение убытков
2. override
   a. не принимать во внимание
   b. лишать юридического действия
   c. задавить
3. remedy
   a. лекарство
   b. средство, мера (против чего-л.)
   c. средство судебной защиты

***7. Соотнесите слова в левой колонке с их определениями в правой.**

1. interest in land
2. the fee simple
3. the lease
4. property
5. the estates
6. equitable interests
7. a remedy
8. damages
9. a plaintiff

a. an agreement temporarily to give up possession of property while retaining legal ownership
b. the nature and extent of a person's interest in or ownership of land
c. monetary compensation
d. the broadest term applicable to claims on real estate
e. the one who initially brings the lawsuit
f. an estate of absolute ownership that can be sold by the owner or devised to the heirs
g. the means employed to enforce or redress an injury

h. the right to land according to natural right or natural justice
i. every species of valuable right or interest that is subject to ownership, has an exchangeable value or adds to one's wealth

***8. Найдите в тексте английские эквиваленты данных словосочетаний.**
1. владение недвижимостью согласно абсолютному праву владения; 2. владение на правах аренды; 3. обязанности, согласно договору; 4. основное право в недвижимости называется вещно-правовым интересом; 5. существуют юридические права в недвижимости и права, регулируемые правом справедливости; 6. юридические средства судебной защиты являются неотъемлемым правом

***9. Выразите согласие или несогласие с данными утверждениями.**
1. The land lawyers talk about interests in land rather than the physical land.
2. In English land law it is important to label interests as "legal" and "equitable".
3. Only legal interests in land are enforced in Britain.

10. Ответьте на вопросы.
1. Why does the land law seem obscure today?
2. What are lawyers concerned with?
3. What does "an interest in land" mean?
4. In what way is the term significant to land lawyers?
5. What types of estates are there?
6. What are the differences between legal interests in land and equitable interests?

Text 3

ESTATE IN ENGLISH LAW

In theory, all the land in England and Wales is still owned by the Crown, with individuals **holding interests** in the Queen's land. The major interests in land are called the "estates", with different rules about **inheritance** and **transfer** but only two of these remain: freehold is a holding "for ever", and leasehold is a holding "for a fixed time". Because of the reforms of 1925, the legal freehold estate is the basic concept of **land ownership**, but in **registered land**, the **"registered proprietor"** hold a new kind of title, the **statutory** equivalent of the legal freehold.

Commission in 1987 proposed a new estate in land called commonhold. This would be a land ownership intermediate between freehold and leasehold for buildings in which separate parts, such as flats are owned by different people.

Notes

hold interest in land – обладать правом в недвижимости
inheritance – наследование
transfer – передача (имущества, прав)
land ownership – право собственности на недвижимость
registered land – зарегистрированная земельная собственность
registered proprietor – зарегистрированный в поземельной книге собственник недвижимости
statutory – действующий в силу закона, предусмотренный законом

Упражнения

***11. Укажите, в каком из приведенных ниже значений данное слово употребляется в тексте.**

1. hold	a. держать b. обладать c. занимать
2. transfer	a. передача b. транзитный билет c. передавать
3. registered	a. зарегистрированный b. дипломированный c. заказной

***12. Найдите в тексте словосочетания, соответствующие данным определениям.**

1. exclusive right of possessing, enjoying and disposing a thing
2. a person's interest in ownership of land
3. property passed by will
4. to convey or remote from one person or place to another
5. estate or interest in real property for life or uncertain duration
6. the estate in real property of fixed duration
7. a land ownership for buildings in which separate parts are owned by different people

***13. Выразите согласие или несогласие с данными утверждениями.**

1. The land in England and Wales is owned by individuals.
2. There are two major interests in land.
3. Freehold is holding for a fixed duration.
4. Commonhold is a land ownership for buildings in which separate parts are owned by different people.

14. Ответьте на вопросы.

1. Who owns the land in Britain?
2. What are the two remaining estates in land?
3. How is freehold different from leasehold?
4. What is the basic concept of land ownership under the reforms of 1925?
5. What is the new kind of estate in land proposed in 1987?

GLOSSARY

building society – строительное кооперативное товарищество
case law – прецедентное право
claimant – лицо, предъявляющее право, претензию или требование; истец
commonhold – публичное право (на пользование землей), общее право собственности
court of equity – суд системы "права справедливости"
court of law – суд, действующий по нормам статутного или общего права
damages – возмещение убытков, убытки
duration – период; срок действия договора; срок полномочий
enforce – обеспечивать соблюдение, исполнение; принуждать; взыскивать в судебном порядке
entitled – имеющий право (на что-л.)
equitable interests – право в недвижимости, регулируемое правом справедливости
equitable remedies – средства судебной защиты по праву справедливости
equitable rules – норма права справедливости
estate – имущество, собственность; право вещного характера; вещноправовой титул
the fee simple (absolute) – безусловное право собственности
fixture – движимость, соединенная с недвижимостью; постоянная принадлежность недвижимости
freehold – безусловное право собственности на недвижимость, фригольд
grant a remedy – предоставлять средство правовой защиты
infringe – нарушать (закон, право, нормы)
inheritance – наследование
interest in land – право в недвижимости
land law – земельное право
land ownership – право собственности на недвижимость

lease – юр. наем недвижимости, жилищный наем, аренда
leasehold – владение на правах аренды; арендованная собственность
legal interests in land – юридическое право в недвижимости
legal rules – правовая норма
legislation – законодательство, законодательный акт
ownership – право собственности
override – действовать вопреки чему-л.; лишать юридического действия; иметь преимущественное юридическое действие; отвергать, не принимать во внимание
plaintiff – истец
possession – право обладания, владения
property – собственность, право собственности
registered land – зарегистрированная земельная собственность
registered proprietor – зарегистрированный в поземельной книге собственник недвижимости
seisin – владение недвижимостью (без ограничительных условий)
statute – статут; закон, законодательный акт
statutory – действующий в силу закона, предусмотренный законом
transfer – передача (имущества, прав)

Ключи

1. 1b; 2c; 3a; 4a; 5c; 6b.

2. 1e; 2a; 3b; 4f; 5d; 6c.

3. 1. legal rules; 2. case law; 3. interest in land; 4. the concepts of ownership and possession; 5. legislation

4. 1. false; 2. false; 3. true; 4. true

6. 1c; 2b; 3c

7. 1d; 2f; 3a; 4i; 5b; 6h; 7g; 8c; 9e

8. 1. the fee simple; 2. the lease; 3. contractual duties; 4. the major interests are called the estates; 5. there are legal interests in land and equitable interests; 6. legal remedies are available as of right

9. 1. true; 2. true; 3. false

11. 1b; 2a; 3a

12. 1.an interest; 2.estate; 3. inheritance; 4. transfer; 5. freehold; 6. leasehold; 7. commonhold

13. 1. false; 2. true; 3. false; 4. true

UNIT FOUR
Contract Law

Text 1
DEFINITION OF A CONTRACT

A **contract** may be defined as a **legally binding agreement** between individuals or between a state and an individual. Binding agreements between states are treaties.

This means that the agreement **generates rights and obligations** that may be **enforced** in the courts. The normal method of **enforcement** is an **action** for **damages** for **breach of contract**, though in some cases the court may **compel performance** by the **party in default**.

Contracts are classified into "**contracts by deed**" and "**simple contracts**". The contract by deed must be in writing and must be signed, witnessed, and delivered. Promises made by deed do not need to be supported by **consideration** in order to be **enforceable**.

All other contracts may be classified as simple contracts, whether they are made in writing, orally or by conduct. Another way of classifying contracts is according to whether they are "**bilateral**" or "**unilateral**".

In case of a bilateral contract a promise by one party is exchanged for a promise by the other. The exchange of the promises is enough to make them both enforceable. In case of a unilateral contract one party promises to do something in return for an act of the other, as opposed to a promise. There are three basic elements in the **formation** of a **valid contract**. First, the parties must have reached agreement (**offer and acceptance**); secondly, they must intend to be legally **bound**; and thirdly, both parties must have provided **valuable consideration**.

A contract consists of various **terms**, both **expressed** and **implied**. A term may be inserted into the contract to exclude or restrict one party's **liability**.

A contract may **be invalidated** by a mistake, or by **illegality**, and where the contract has been **induced** by **misrepresentation, duress** or **undue influence**, the innocent party may have the right to set it aside.

Many people assume that a contract is only legally enforceable if it is in writing and signed by the parties to the contract. This is a mistaken belief: most of us during our daily lives enter into **unwritten contracts** which are as legally enforceable as the most complex written documents. Simple **transactions** such as the purchase of a bus ticket or a packet of frozen peas from a supermarket are enforceable agreements and governed by the rules of the law of contract.

Notes

contract law – договорное право
legally binding agreement – юридически обязывающее/обязательное соглашение
generate rights and obligations – формировать права и обязательства
enforce – принудительно осуществлять; взыскивать в судебном порядке;
enforcement – принудительное осуществление; взыскание в судебном порядке; принуждение к исполнению
enforceable – имеющий исковую силу; могущий быть принудительно осуществленным в судебном порядке; обеспеченный правовой санкцией
action – иск
action for damages – иск о взыскании убытков
breach of contract – *нарушение договора*
break a contract – нарушить/нарушать договор
compel – заставлять, вынуждать
performance – исполнение
performance of a contract – исполнение договора
perform a contract – исполнить договор
party – сторона по делу, в договоре и т.п.; участник, участвующее лицо; контрагент
party to a contract – сторона-участник договора
party in default (at, in) fault – виновная сторона
contract by deed/contract under seal/specialty contract – договор за печатью/ нотариально заверенный договор
simple contract – простой контракт
consideration – встречное удовлетворение
bilateral contract – двусторонний договор
unilateral contract – односторонний договор
formation of a contract – заключение договора
form a contract/to make a contract/ to enter into a contract – заключать договор
valid contract – договор, имеющий силу; надлежаще оформленный договор
invalid contract – *не имеющий силы договор; договор, оформленный ненадлежащим образом; недействительный договор*
reach an agreement – достичь соглашения
offer and acceptance – оферта и акцептирование оферты

bound – обязанный, связанный обязательствами
valuable consideration – надлежащее встречное удовлетворение
terms of the contract/contract terms – условия договора
expressed terms – выраженные условия
implied terms – подразумеваемые условия
liability – ответственность; обязанность; долг, долговые обязательства
invalidate – делать недействительным, признавать недействительным
illegality – незаконность, противозаконность, неправомерность, противоправность, нелегальность
induce – побуждать, склонять
misrepresentation – введение в заблуждение
duress – принуждение
undue influence – злоупотребление влиянием
unwritten contract – устный договор
written contract – письменный договор
transaction – сделка, ведение деловых операций

Упражнения

***1. Найдите в тексте английские эквиваленты следующих словосочетаний.**
1. юридически обязывающее соглашение; 2. права и обязательства; иск о взыскании убытков; 3. виновная сторона; 4. двусторонний договор; 5. заключение договора; 6. достигать соглашения; 7. иметь исковую силу; 8. условия договора; 9. выраженные условия; 10. подразумеваемые условия; 11. договор за печатью; 12. сделка; 13. участник договора; 14. принуждение.

***2. Соотнесите слова в левой колонке с их определениями в правой.**

1. invalidate	a. to make people obey a rule or law
2. damages	b. a civil proceeding commenced by writ or in such other manner as may be prescribed by rule of court
3. action	c. a person or a group of people who take part in a trans action or legal proceeding
4. enforce	d. to make a document, claim, etc., no longer legally or officially accepted
5. party	e. money that a court orders someone to pay to some one else for harming them or their property

3. Составьте предложения, используя данные слова и словосочетания.
legally binding agreement, enforcement, breach of contract, performance of a contract, bilateral contract, to be invalidated , party to a contract, valid contract, to reach an agreement

***4. Завершите предложения, переведя слова и словосочетания в скобках.**

1. Many people think of a contract as a (письменное соглашение) between people. However there are many kinds of (устных соглашений) between people which the law of most countries describes as (договоры)
2. One of the most common (юридических исков) is to claim that the contract has existed and that one of the parties is in (нарушает договор).
3. There are many everyday (сделок) which most people never think of as contracts.
4. In order that the agreement should be a contract (стороны) must have shown an intention that their agreement should have legal consequences.
5. In order that a (надлежаще оформленный договор) between the (сторонами) should come into existance certain essential requirements must be fulfilled.
6. The simple contract must be supported by (встречное удовлетворение).
7. In many systems of law there is a written code stating exactly what is required to make a contract and what (права и обязательства) of contracters are.

5. Ответьте на вопросы.

1. What is a contract? What is a treaty?
2. What is the normal method of enforcement?
3. How can contracts be classified?
4. What are three basic elements in the formation of a valid contract?
5. What does a contract consist of?
6. In what case may an innocent party have the right to set the contract aside?

Text 2

OFFER

If a contract is a legally binding agreement, the first question to consider is the method by which the court **ascertains** whether a contract is to be formed. The **offer** must express the definite intention on the part of the person or organization making it (called "the **offeror**") **to enter into the contract** with the person or organization to whom or which it is addressed (known as "the **offeree**").

An offer may be defined as a **statement of willingness to contract** on specified terms made with the intention that, if accepted, it shall become

binding contract. An offer may be **express** or **implied** from conduct. It may be addressed to particular person, a group of persons, or the **world at large**. A genuine offer must be distinguished from an **"invitation to treat"**; i.e. where a party is merely **inviting offers**, which it then free to accept or reject.

An offer must be clear and contain the details of the contract; for example, if A asks B 'would you like to buy my car' and B replies 'yes', there is no contract because the offer did not include an essential detail, the price.

The offeree may choose to **accept or reject the offer** but once it is accepted the contract is concluded and the parties are bound by its terms.

An offer may **be withdrawn** or **revoked** by the offeror at any time as long as it has not yet been accepted by the offeree. The offeror may revoke the offer even if he has given the offeree some time for acceptance. The purpose of giving the offeree a time-limit for acceptance is to indicate that the offer will **lapse** automatically if it has not been accepted before this time has **expired**.

If the offeree wants to ensure that the offer should not be revoked before a certain time has expired he may do so by obtaining an **option** from the offeror. An option is a seperate contract, made between the offeror and offeree, whereby in return for same **consideration** the offeror agrees to keep the offer open.

Notes

ascertain – устанавливать, определять, выяснять, удостоверять; индивидуализировать (вещь, товар)

ascertained – индивидуализированный (о вещи, товаре); выясненный, установленный

ascertainment – установление, определение, выяснение – индивидуализация (вещи, товара)

offer – оферта

offeror/offerer – оферент, лицо, делающее предложение

enter into a contract – вступать в юридически обязывающий договор

offeree – адресат оферты, лицо, которому делается предложение

offer and acceptance – оферта и акцептирование оферты

offer to the world/to a public at large – оферта, обращенная к неопределенному кругу лиц

invitation to offer – заявление к оферте; предложение сделать оферту

invitation to treat – предложение вести переговоры о заключении договора

make an offer – сделать оферту

accept an offer – принимать оферту/предложение

reject an offer – отклонять оферту/предложение
revoke/withdraw an offer – отозвать оферту
statement of willingness to contract – заявление о готовности вступить в юридически обязывающий договор
specified terms – точно определенные условия
express offer – прямо выраженная оферта
implied offer – подразумеваемая оферта
lapse – истекать о праве
expire – истекать о времени
obtain an option – получать право выбора/опцион
option – выбор, право выбора; усмотрение; дискреционное право; опцион
consideration – встречное удовлетворение

Упражнения

***6. Найдите в тексте английские эквиваленты следующих словосочетаний.**
1. рассматривать вопрос; 2. определенное/точное намерение; 3. вступать в юридически обязывающий договор; 4. со стороны лица; 5. заявление о готовности вступить в юридически обязывающий договор; 6. точно определенные условия; 7. прямо выраженная оферта; 8. подразумеваемая оферта; 9. быть адресованной (об оферте) неопределенному кругу лиц; 10. быть связанными (о сторонах) условиями контракта; 11. получать право выбора/опцион

7. Найдите в тексте слова, соответствующие данным определениям, и переведите предложения, в которых они встречаются, на русский язык.
1. to find out if a fact someone thinks true is really true
2. to request
3. to officially state that a law, decision, contract, etc, is no longer effective
4. to come to an end because an agreed time limit has passed
5. a choice

8. Составьте предложения, используя данные слова и словосочетания, и переведите предложения на русский язык.
offer and acceptance; invitation to offer; to enter into a contract; specified terms; to obtain an option; express offer; lapse; to revoke an offer; expire

9. Ответьте на вопросы.
1. What is an offer?
2. What must it express?
3. How many people can an offer be addressed to?
4. What types of offer can you name?

5. What is the difference between a genuine offer and an invitation to treat?
6. What essential element must an offer contain?
7. When is a contract concluded?
8. Can an offer be withdrawn by the offeror?
9. What is an option?

Text 3

ACCEPTANCE

Acceptance may be defined as an **unconditional assent**, communicated by the offeree to the offeror, to all terms of the offer, made with the intention of accepting. Whether an acceptance has in fact occurred is ascertained from the behaviour of the parties, including any correspondence that has passed between them.

The offeree must accept the exact terms proposed by the offeror *unconditionally*; i.e without **introducing any new terms** which the offeror has not had any opportunity to consider. The introduction of new terms is referred to as a "**counter-offer**" and its effect in law is to bring to an end the original offer.

The offeree is always free to ignore an offer completely. The offeror can **attach a time-limit** to his offer and may consider the offer as lapsed if has not been accepted within this time, but cannot consider the offer as accepted if there has been no rejection **communicated** to him within the time fixed.

A mere mental acceptance of an offer is also insufficient **to complete a contract**. As a general rule, acceptance will not be **effective** unless communicated to the offeror by the offeree or by someone with his or her authority. The communication of **acceptance** must be actually received by the offeror, and, where the means of communication are **instantaneous** (oral, telephone, telex), the contract will **come into being** when and where acceptance is received.

If the offeror **prescribes a particular method of communicating acceptance** and makes it clear that no other method will surface, then there may be no contract if a different method is used by the offeree.

Where the offer does not prescribe a method of acceptance, the appropriate **method may be inferred** from the form in which the offer is made.

Notes

acceptance – акцепт
mental **acceptance** – молчаливый акцепт
conditional acceptance – неопределенный акцепт/условный акцепт
unconditional acceptance – безоговорочный, безусловный, неограниченный условием акцепт
unconditional assent – безоговорочное согласие

introduce new terms – вносить на рассмотрение/ставить новые условия
counter-offer – встречное предложение
attach a time-limit – устанавливать срок
communicate (the acceptance) – сообщить об (акцепте)
complete a contract – завершить контракт
be effective – иметь силу
instantaneous – мгновенный, моментальный, немедленный, незамедлительный
come into being – вступить в силу
prescribe a particular method of communicating acceptance – предписывать определенный способ сообщения об акцепте
infer a method – заключать/подразумевать

Упражнения

***10. Найдите в тексте английские эквиваленты следующих словосочетаний.**
1. безусловный акцепт; 2. условия оферты; 3. стороны (соглашения); 4. выдвигать новые условия; 5. встречное предложение; 6. первоначальное предложение; 7. устанавливать срок оферты; 8. отказ; 9. молчаливый акцепт; 10. завершать контракт; 11. иметь силу; 12. предписывать определенный способ сообщения.

***11. Соотнесите слова в левой колонке с их определениями в правой колонке.**

1. time-limit	a. happening immediately
2. assent	b. the longest time in which you are allowed to do something
3. instantaneous	c. approval or agreement from someone who has authority
4. to infer	d. to state officially what someone can and can not do or what should be done in particular situation
5. to prescribe	e. to form an opinion that something is probably true because of other information that you already know

***12. Завершите предложения, переведя слова и словосочетания в скобках.**
1. One principle of English contract law is that there must be (оферта и акцепт). 2. An advertisement to sell something is not normally (рассматривается как оферта). 3. Any deviation from the (условий оферты) is called (встречная оферта) which the (первоначальный

оферент) is then free to (принять или отклонить). 4. The importance of determining which part of the transaction constitutes the (оферту) and which the (акцепт) rests on the fact that once (оферта акцептирована, контракт считается заключенным). 5. If, after this point, (одна из сторон) fails to perform his or her (обязательства), (другая сторона) may apply to the courts for legal remedy.

13. Ответьте на вопросы.

1. What is an acceptance?
2. What is an unconditional acceptance?
3. What is a counter-offer?
4. Is a mere mental acceptance of an offer sufficient to complete a contract? Why/Why not?
5. When may the offeror consider the offer as lapsed?
6. How can an acceptance be communicated to an offeror?

Text 4

CONSIDERATION

In addition to offer and acceptance and contractual intent, **consideration** is an essential element in the formation of any contract not by deed.

By consideration the law means valuable consideration, which must consist of something capable of being estimated in money.

It is a principle of law that a contract must be supported by consideration if it is to be legally valid. A contract is basically a form of exchange; the party receives in return for his act or promise something from the other party, and this something is referred to as the consideration.

Consideration is called "**executory**" where there is an exchange of promises to perform acts in the future, e.g. bilateral contract for the supply of goods where A promises to deliver goods to B at a future date and B promises to pay on delivery. Alternatively consideration is referred to as "**executed**" where the party performs an act of fulfilment of a promise made by the other, e.g. the unilateral contract where A offers a reward to anyone who provides certain information.

Both these types of consideration should be distinguished from "**past**" **consideration.** Past consideration, unlike executory or executed consideration, is not good or valid consideration. Consideration is said to be past when it consists of some service or benefit previously rendered to the promisor. Whether consideration is past is a question of fact.

The parties to a contract are the persons who have **provided consideration**. The relationship that exists between them is that of the **privity of contract**. A person who has not povided any consideration but who has to benefit from the contract may not **bring the action** for **breach of contract** if the contract is not performed, as privity of contract did not exist between him and the party who failed to carry out his contractual promises.

Notes

consideration – встречное удовлетворение
valuable consideration – надлежащее встречное удовлетворение
good consideration – удовлетворение через выражение благодарности
executory consideration – подлежащее исполнению встречное удовлетворение; будущее встречное удовлетворение
executed consideration – исполненное встречное удовлетворение (предложенное встречное удовлетворение)
past consideration – предшествующее встречное удовлетворение
provide consideration – предусматривать встречное удовлетворение
privity of contract – секретность/тайна договора
bring the action (for) – возбуждать иск
breach of the contract – нарушение договора

Упражнения

***14. Найдите в тексте английские эквиваленты следующих словосочетаний.**
1. намерение заключить договор; 2. важный элемент; 3. заключение договора; 4. надлежащее встречное удовлетворение; 5. имеющий юридическую силу; 6. подлежащее исполнению встречное удовлетворение; 7. исполненное встречное удовлетворение; 8. двусторонний договор; 9. поставка товаров; 10. предлагать вознаграждение; 11. предоставлять определенную информацию; 12. секретность/тайна договора; 13. возбуждать иск; 14. нарушение договора; 15. выполнять договорные обещания

15. Составьте предложения, используя данные слова и словосочетания, и переведите предложения на русский язык.
to perform acts; to deliver goods; to provide information; to render service; to bring an action for; legally valid; benefit

***16. Вставьте пропущенные предлоги и переведите на русский язык (со словарем).**
1. All simple contracts, whether .... writing or ..... word require consideration to support them. 2. .... consideration the law means valuable consideration, which must consist .... something capable .... being estimated .... money. 3. The consideration must be ..... some value .... the sight .... law. 4. Some writers have applied the term "good consideration" .... such cases. 5. Only those .... whom there is privity ..... contract can incur liability or acquire rights....contract .... which he is not a party. 6. A person who has not provided any consideration but who has to benefit .... the contract may not bring action .... breach .... contract if the contract is not performed.

17. Ответьте на вопросы.

1. What are the essential parts of the contract?
2. What does a valuable consideration consist of?
3. What is the difference between an executory consideration and an executed consideration?
4. What is past consideration?

Text 5

TERMS OF THE CONTRACT

Contracts consist of various statements, promises, **stipulations**, etc. grouped together under the word "terms". The terms may be **expressed** or **implied**. It is the terms of the contract which determine the **extent** of each party's rights and duties and the **remedies** available if the terms are **broken** are determined by the comparative importance of the terms.

Certainty. A contract may be void if the terms are not reasonably certain. In commercial **transactions**, the court may be prepared to **enforce** an ostensibly vague agreement by reference to **trade custom** or any previous **dealing** between the parties. It is possible that the parties themselves may **provide the machinery for** resolving an **apparently** uncertain terms, such as where the price of land is to be fixed by valuers appointed by the parties.

If an uncertain term is actually meaningless, then exceptionally the court may be prepared to **sever** the **provisions** if it is clearly **superfluous**.

Parol evidence rule. There is a general rule, "the parole evidence rule", that where a contract is **embodied in a written document**, then **extrinsic** (parol) evidence is not admissible to add to, **vary**, **subtract** from or **contradict** the terms of the written document. Extrinsic evidence is not confined to oral statement but can extend to written matter such as **draft contracts** and correspondence. This rule proved to be rather inconvenient and even unjust and the courts have evaded it by creating a number of exceptions.

The main exceptions to the parol evidence rule are: 1) custom; 2) **operation of the contract**; 3) **validity**; 4) evidence as to **suplementary terms**; 5) **rectification**; 6) **collateral contract**.

Notes

terms – условия договора
stipulation – условие, оговорка; соглашение, пункт соглашения
express terms – прямо выраженные *или явно выраженные условия*
implied terms – подразумеваемые условия
extent – объем, диапазон, степень, размер
break the terms – нарушать условия

remedy, remedies – средство судебной защиты; средство защиты права
certainty – несомненность; несомненный факт; уверенность
transaction – сделка
enforce – принудительно осуществлять/взыскивать в судебном порядке; обеспечивать соблюдение, исполнение; принудительно приводить в жизнь; обеспечивать санкцией; принуждать
enforce an agreement – обеспечивать соблюдение/выполнение договора
trade custom – торговый обычай
dealing – сделка, операция
provide the machinery for – обеспечивать механизм для чего-л.
apparently – очевидно, явно
sever – отделять/отделить; разрывать/разорвать
provision – условие, постановление, положение договора
superfluous – излишний
parole evidence – устные доказательства (не содержащиеся в документе за печатью)
be embodied in a written document – быть воплощенным в письменном документе
extrinsic – посторонний; не присущий, несвойственный
vary – менять, изменять
sabtract – вычитать, вычесть; неправомерно отказать в предоставлении прав или имущества
contradict – противоречить, опровергать
draft contract – проект контракта
operation of the contract – юридическая сила/юридическое действие контракта
validity – юридическое действие/срок действия
suplimentary terms – дополнительные условия
rectification – исправление, поправка; внесение поправки, исправления; устранение ошибки
collateral contract – дополнительный контракт

Упражнения

***18. Найдите в тексте английские эквиваленты следующих словосочетаний.**

1. определять средства судебной защиты; 2. быть недействительным (о контракте); 3. коммерческая сделка; 4. обеспечивать соблюдение контракта; 5. неопределенные условия; 6. устное заявление; 7. ограничиваться; 8. несправедливое правило; 9. избегать

19. Сверяясь с текстом, скажите, в каком значении употребляются в тексте приведенные ниже слова, и переведите предложения, в которых они встречаются, на русский язык.

statement; stipulation; remedy; machinery; provision

***20. Найдите в тексте синонимы следующих слов и переведите предложения, в которых они встречаются, на русский язык.**

1. deal/bargain _____
2. condition/provision _____
3. excessive/unnecessary _____
4. to despute/oppose _____
5. to deduct/take away _____

21. Составьте предложения, используя данные слова и словосочетания, и переведите предложения на русский язык.

to enforce an agreement; to determine remedies; to break the contract terms; to provide information; draft contract; operation of contract

22. Ответьте на вопросы.

1. What does a contract consist of?
2. What do the terms of a contract determine?
3. When can a contract be void?
4. How can an ostensibly vague agreement be enforced?
5. What is a "Parole Evidence Rule"?
6. What are the main exceptions to the parole evidence rule?

Text 6

REPRESENTATION AND TERMS

Statements made by the parties in the course of negotiations leading up to the formation of the contract are classified by the court as either **representations** or terms. A representation is a statement which **induces** the contract but does not form part of it, whereas a term is a promise or **undertaking** that is a part of the contract itself. If a representation proves to be false, the **remedy** will lie in **an action** for **misrepresentation**, whereas if a term is broken the remedy will lie in an action for breach of contract. In some cases, a misrepresentation later becomes **incorporated** into the contract as a term. In such a case the **injured party** will have two causes **of action**: one for misrepresentation and the other for breach.

Whether a statement is a representation or a term is primarily a question of **intention**. If the parties have **indicated** that a statement is to be regarded as a term, the court will **implement** their intention. In other cases, the following **guidelines** may be applied:

1. A statement is not likely to be a term if the person making the statement asks the other party to check or **verify** it, as where the seller of a boat

stated that it was sound but asked the buyer to have it **surveyed**. If the statement is made with intention of preventing the other from finding a defect and succeeds in this, the court may consider it to be a term.

Where there is a distinct interval of time between the making of the statement and **conclusion of the contract**, this may indicate that the parties do not intend the statement to be a term.

2. A statement is likely to be a term if it is such that the injured party would not have entered into the contract had it not been made.

3. Where one of the parties possesses superior knowledge and skill relating to the **subject-matter**, the court may **conclude** that any statement made by such a party is a term.

4. Where the agreement **has been reduced to a written document**, statements appearing in the written contract will normally be regarded as terms. Subject to the matters discussed above, statements excluded from the written contract are likely to be regarded as representations. Nevertheless, the court will look to the intention of the parties to see whether they intended a contract partly written and partly oral.

Notes

statement – заявление, изложение, утверждение
representation – только сообщение/информация
induce – вызывать; индуктировать; побуждать
undertaking – обязательство, гарантия
undertake – обязываться; брать на себя
remedy – средство судебной защиты; средство защиты права
action – иск; судебное преследование
misrepresentation – введение в заблуждение
incorporate – включать; инкорпорировать, предоставлять права юридического лица
injured party – пострадавшая сторона
cause of action – основание для предъявления иска
have a cause of action – иметь основания для предъявления иска
intention – намерение, умысел, цель
indicate – показывать, указывать
implement – выполнять, осуществлять
guideline – деректива
verify – проверять, выверять, сверять
verification – проверка, подтверждение
survey – осматривать
conclusion of a contract – заключение договора
conclude a contract – заключать договор

subject-matter – предмет спора, договора и т.д.
conclude (about) – решать, делать вывод
be reduced to written document – быть составленным в качестве письменного документа

Упражнения

***23. Найдите в тексте английские эквиваленты следующих словосочетаний.**
1. заключение контракта; 2. в ходе переговоров; составлять часть контракта; 3. обязательство; 4. введение в заблуждение; 5. средство судебной защиты; 6. иметь основания для предъявления иска; 7. выполнять намерения; 8. пострадавшая сторона

***24. Соотнесите слова в левой колонке с их определениями в правой.**

1. intention	a. the process of taking a case or a claim to a court of law
2. undertaking	b. something that you plan to do
3. to implement statement	c. to find out if a fact, statement, etc., is true or correct
4. to survey	d. to inspect or examine the condition of somethinng
5. action	e. a promise to do something
6. to verify	f. to take action or make changes that you have officially decided should happen

25. Сверяясь с текстом, вставьте пропущенные предлоги и переведите выражения на русский язык.
_____ the cause of negotiations; the remedy will lie ____an action _____misrepresentation; a misrepresantation later becomes incorporated _____the contract; the injured party will have two causes _____action: one _____misrepresentation and the other _____breach; the statement is made_____intention_____preventing the other _____finding a defect; succeeds _____; the agreement has been reduced _____a written document.

26. Ответьте на вопросы.
1. What is a statement?
2. What is a representation?
3. What will be the remedy if a representation proves to be false?
4. What will be the remedy if a term of a contract is broken?
5. What causes of action can an injured party have if misrepresentation is incorporated into the contract as its term?
6. Give examples when a statement is likely to be a term of a contract.

GLOSSARY

acceptance – акцепт
communicate an acceptance – сообщать об акцепте
communication of an acceptance – сообщение акцепта
conditional acceptance – неопределенный акцепт/условный акцепт
mental acceptance – молчаливый акцепт
prescribe a particular method of communicating acceptance – предписывать определенный метод/способ сообщения об акцепте
unconditional acceptance – безоговорочный, безусловный, неограниченный условием акцепт
action – иск
action for damages – иск о взыскании убытков
bring an action for – возбуждать иск
cause of action – основание для предъявления иска
have a cause of action – иметь основания для предъявления иска
agreement – соглашение
agreement on – соглашение о чем-л.
break an agreement – нарушать соглашение
by mutual agreement – по взаимному соглашению
carry out an agreement – выполнять договор
come to an agreement – приходить к соглашению
conclude an agreement – заключать соглашение
enforce an agreement – обеспечивать соблюдение/исполнение/выполнение соглашения
enter into an agreement – заключать соглашение
keep an agreement – соблюдать соглашение
legally binding agreement – юридически обязывающее/обязательное соглашение
make an agreement – заключить соглашение
reach an agreement – достичь соглашения
trade agreement – торговое соглашение
under an agreement – в соответствии с соглашением
apparently – очевидно, явно
ascertain – устанавливать, определять, выяснять, удостоверять; индивидуализировать (вещь, товар)
ascertained – индивидуализированный (о вещи, товаре); выясненный, установленный
ascertainment – установление, определение, выяснение; индивидуализация (вещи, товара)
assent – согласие
unconditional assent – безоговорочное согласие

assume – принимать, принять; предполагать/предположить; допускать/допустить
assumption – принятие на себя (ответственности, обязанности, риска, власти); предложение, допущение; вступление в должность
available – имеющийся в наличии; доступный
be available – иметься в наличии; быть доступным
award – выносить решение; присуждать
award compensation – присуждать компенсацию
benefit – прибыль; выгода; польза
benefit – получать выгоду от чего-л.
bind – связывать (моральным) обязательством
binding – обязывающий; обязательный
breach – нарушение
breach of a contract – нарушение договора
break – нарушать
break a contract – нарушить/нарушать договор
bound – обязанный, связанный обязательством
certainty – несомненность; несомненный факт; уверенность
come into being – вступить в силу
compel – заставлять, вынуждать
compensation – компенсация
conclude – решать, делать вывод
consideration – встречное удовлетворение
good consideration – удовлетворение через выражение благодарности
executed consideration – исполненное встречное удовлетворение (предложенное встречное удовлетворение)
executory consideration – подлежащее исполнению встречное удовлетворение (будущее встречное удовлетворение)
past consideration – предшествующее встречное удовлетворение
provide consideration – предусматривать встречное удовлетворение
valuable consideration – надлежащее встречное удовлетворение
contract – договор; контракт
bilateral contract – двусторонний договор
breach of contract – нарушение договора
collateral contract – дополнительный контракт
conclude a contract – заключать договор
conclusion of a contract – заключение договора
contract by deed/contract under seal/specialty contract – договор за печатью/нотариально заверенный договор
contract terms – условия договора

draft contract – проект контракта
enter into a contract – вступать в юридически обязывающий договор
form a contract – заключать договор
formation of a contract – заключение договора
operation of the contract – юридическая сила/юридическое действие контракта
privity of contract – секретность/ тайна договора
perform a contract – исполнять договор
performance of a contract – исполнение договора
simple contract – простой договор
statement of willingness to contract – заявление о готовности вступить в юридически обязывающий договор
void contract – недействительный/лишенный юридической силы договор
unilateral contract – односторонний договор
unwritten contract – устный договор
written contract – письменный договор

contractual – договорный
contractual intent – намерение заключить контракт/ вступить в контрактные отношения

damages – убытки
dealing – сделка, операция
duress – принуждение
effective – действенный, эффективный; действующий, имеющий силу
be effective – иметь силу
embordied – воплощенный
be embodied in a written document – быть воплощенным в письменном документе
enforce – принудительно осуществлять; взыскивать в судебном порядке; обеспечивать соблюдение, исполнение; принудительно проводить в жизнь; обеспечивать санкцией; принуждать
enforce an agreement – обеспечивать соблюдение/выполнение договора
enforced – вынужденный; принужденный; принудительно примененный (закон); принудительно осуществленный (или взысканный) в судебном порядке; принудительно обеспеченный; принудительно проведенный в жизнь; обеспеченный правовой санкцией

enforcement – принудительное осуществление; взыскание в судебном порядке; принуждение к исполнению

enforceable – имеющий исковую силу; могущий быть принудительно осуществленным в судебном порядке; обеспеченный правовой санкцией

enforceable in court of law – могущий быть принудительно осуществленным в судебном порядке

enforceable in law – обеспеченный правовой санкцией; могущий быть принудительно осуществленным по закону

expire – истекать (о времени)

extent – объем, диапазон, степень, размер

evidence – доказательство

extrinsic evidence – посторонние доказательства

parole evidence – устное доказательство

formation of a contract – *заключение договора*

generate rights and obligations – формировать права и обязательства

guideline – директива

illegal – незаконный, противозаконный, противоправный

illegality – незаконность, противозаконность, неправомерность, противоправность, нелегальность

indicate – показывать, указывать

induce – вызывать; побуждать склонять; убеждать, воздействовать

inducement – побуждающий фактор, побуждение, стимул

infer – заключать, подразумевать

instantaneous – мгновенный, моментальный, немедленный, незамедлительный

intention – намерение, умысел, цель

invalidate – делать недействительным, признавать недействительным

be invalidated – быть признанным недействительным

invitation to offer – заявление к оферте; предложение сделать оферту

invitation to treat – предложение вести переговоры о заключении договора

lapse – истекать (о праве)

liability – ответственность; обязанность; долг; долговые обязательства

misrepresentation – введение в заблуждение

offer – оферта

accept an offer – принимать оферту/предложение

express offer – *прямо выраженная оферта*

implied offer – подразумеваемая оферта

invitation to offer – заявление к оферте; предложение сделать оферту

make an offer – сделать оферту
offer and acceptance – оферта и акцептирование оферты
offer to the world/to a public at large – оферта, обращенная к неопределенному кругу лиц
reject an offer – отклонить оферту/предложение
revoke/withdraw an offer – отозвать оферту
offeree – адресат оферты, лицо, которому делается предложение
offeror/offerer – оферент, лицо, делающее предложение
option – выбор; право выбора; усмотрение; опцион
obtain an option – получать право выбора/опцион
parol evidence – устные доказательства
party – сторона (по делу, в договоре и т.п.); участник, участвующее лицо; контрагент
dominant party – господствующая, доминирующая сторона
injured party – пострадавшая сторона
party in default/at/in fault – виновная сторона
party to a contract – сторона-участник договора
perform – исполнять
perform a contract – исполнять договор
performance – исполнение
performance of a contract – исполнение договора
specific performance – исполнение в натуре
privity – секретность/тайна (договора)
provision – положение (договора)
reach an agreement – достичь соглашения
rectification – исправление, поправка; внесение поправки, исправление поправки; устранение ошибки
remedy – средство судебной защиты
representation – только сообщение/информация
revoke – отзывать
sever – определять, отделять; разрывать, разорвать
statement – заявление, изложение, утверждение
stipulation – условие, оговорка; соглашение, пункт соглашения
stipulation of time – обусловливание временем
subject-matter – предмет спора
subtract – вычитать; неправомерно отказать в предоставлении прав или имуществ
superfluous – излишний
terms of the contract – условия договора
break the terms – нарушать условия
express terms – выраженные условия

implied contractual terms – подразумеваемые договорные условия
implied terms – подразумеваемые условия
imply terms into a contract – подразумевать условия договора
introduce new terms – вносить на рассмотрение; ставить, выдвигать новые условия
specific terms – точно определенные условия
specifically agreed upon terms – определенно оговоренные условия
suplementary terms – дополнительные условия
time-limit – срок
attach a time-limit – устанавливать срок
trade custom – торговый обычай
transaction – сделка, ведение деловых операций
undertaking – обязательство, гарантия
undertake – брать на себя; обязываться
undue influence – злоупотребление влиянием
valid – имеющий силу
valid contract – договор, имеющий силу; надлежаще оформленный договор
validity – юридическое действие; сила договора
verify – проверять, выверять, сверять
verification – проверка, подтверждение
vary – менять, изменять
vary a contract – изменять договор
void – недействительный; не имеющий юридической силы; лишенный юридической силы
be void/become void – стать недействительным; лишиться юридической силы
withdraw – отказываться
withdraw from an agreement/contract – отказываться от соглашения
withdrawl – отказ; взятие назад; отмена; выход из состава

Ключи

1. legally binding agreement; 2. rights and obligations; an action for damages; 3. The party in default; 4. bilateral contract; 5. formation of a contract; 6. to reach an agreement; 7. to be enforceable; 8. terms of the contract; 9. express terms; 10. implied terms; 11. contract by deed; 12. transaction; 13. party to a contract; 14. duress

2. 4a; 3b; 5c; 1d; 2e

4. 1. written contract; unwritten contract; agreements; 2. law action; breach of a contract; 3. transactions; 4. parties; 5. valid contract; parties; 6. consideration; 7. rights and obligations

6. 1. to consider a question; 2. definite intention; 3. to enter into a contract; 4. on the part of; 5. statement of willingness; 6. specified terms; 7. express offer; 8. implied offer; 9. to be addressed to the world at large; 10. to be bound by contract terms; 11. to obtain an option

7. 1. to ascertain; 2. to offer; 3. to lapse; 4. to expire; 5. option

10. 1. unconditional acceptance; 2. terms of the offer; 3. parties; 4. rejection; 5. mental acceptance; 6. to complete a contract; 7. to be effective; 8. to prescribe a particular method of communication

11. 1b; 2c; 3a; 4e; 5d

1. offer and acceptance; 2. to be regarded as an offer; 3. terms of an offer, counter offer original offeror, accept or reject; 4. offer, acceptance, the offer is accepted, the contract is made; 5. one of the parties, obligations, the other party; 6. breach of obligations under the contract

14. 1. contractual intent; 2. essential element; 3. formation of a contract; 4. valuable consideration; 5. legally valid; 6. executory consideration; 7. bilateral contract; 8. supply of goods; 9. to offer a reward; 10. to provide certain information; 11. privity of contract; 12. to bring the action; 13. breach of contract; 14. to carry out contractual promises

16. 1. in, by; 2. by, of, of, in; 3. of, from, of; 4. to; 5. for, of, for, under; 6. from, for, of.

18. 1. to determine remedies; 2. to be void; 3. commercial transaction; 4. to enforce an agreement; 5. uncertain terms; 6. oral statement; 7. to be confined to; 8. unjust rule; 9. to evade

20. 1. transaction; 2. stipulation; 3. superfluous; 4. to contradict; 5. to subtract

23. 1. conclusion of a contract; 2. in the course of negotiations; 3. to form part of a contract; 4. undertaking; 5. misrepresentation remedy; 6. to have a course of action; 7. to implement an intention; 8. an injured party

24. 1b; 2e; 3f; 4c; 5a; 6d

UNIT FIVE
Family Law

Text 1
THE LAW AND THE FAMILY

Here, we will look at how the law sees the family a special **institution**; how some legal systems treat married couples and their children differently from the unmarried; the process of divorce; **custody** of and responsibility for children; and **protection from violence** in the home. Finally, we will consider **the rights of succession** to the **property** of a family member when they die.

Beyond the mere function of providing a new **generation** of children, the family is often **promoted** for its moral contribution to society. Despite a growing labor **shortage**, the Japanese government has passed very little legislation **challenging** the **assumption** that mothers should stay at home rather than go out to work. In Ireland, which is strongly influenced by the doctrines of the Catholic Church, divorce remains illegal.

In some societies the family is thought to be so important that there is very little **legal intervention** in family life. In many **Islamic** countries, for example, fathers, brothers and sons are allowed considerable **authority** over the **females** in their family. As late as the 1970s, the **male** head of the household in Switzerland **was deemed** to represent the interests of everyone within that household, and, consequently, none of the women could vote in national elections. But in many parts of the world, the law now promotes the rights of individuals within the family unit, and regulates family relations **through legislation.** Raised from the **taxes** of the working population as a whole, **child benefit** is paid directly to the mother, and **retirement pensions** are paid to grandparents, so that they are less dependent upon financial support from a family member. In Sweden, parents can **be prosecuted** for physically **punishing** their children and children have a limited **capacity** to divorce their parents. In Britain, as in many countries, there are special family courts with very strong powers to control and transfer private property in the interests of children. Much of the work of other courts is also **directly relevant to** family life.

Notes

institution – учреждение
custody – опека
protection from violence – защита от насилия
rights of succession – права наследования

property – собственность
generation – поколение
promote – *зд.* поддерживать
shortage – нехватка, недостаток
challenge – бросать вызов
assumption – предположение
legal – законный
intervention – вмешательство
Islamic [ɪz´læmɪk] – мусульманский, исламский
authority – власть
female – существо женского рода
male – существо мужского рода
be deemed to – полагаться, считаться
through legislation – законодательным путем
taxes – налоги
child benefit – пособие на ребенка
retirement pensions – пенсии по старости
be prosecuted – подвергаться судебному преследованию
punish – наказывать
capacity – способность
directly relevant to – прямо относящийся к

Упражнения

***1. Найдите в тексте английские эквиваленты следующих словосочетаний.**

1. обращаться с; 2. женатые пары; 3. ответственность за; 4. нехватка рабочей силы; 5. католическая церковь; 6. им разрешено; 7. следовательно; 8. голосовать на выборах; 9. собирать налоги; 10. быть зависимым от; 11. материальная поддержка; 12. большие полномочия; 13. передавать частную собственность; 14. рассматривать вопрос

2. Составьте предложения, используя данные слова и словосочетания.

legal intervention in family life; to represent the interests of everyone within the household; to promote the rights of individuals within the family unit; to punish physically

3. Ответьте на вопросы.

1. What does the chapter 'The Law and the Family' consider?
2. What is the family promoted for?
3. Is there much intervention in family life in Islamic countries?
4. What courts control private property in the interests of children in Britain?

Text 2

MARRIAGE REQUIREMENTS

Generally, romantic **love** is the basis of marriage in this country, but this is a relatively recent **development**. In the past bride **seizure, payment** and **parental arrangement** were **regarded as** the normal methods for deciding on marriage partners. To **be** legally **valid**, a marriage must be:

- voluntary
- between two single people
- who are over sixteen
- of the opposite sex
- and not closely related.

A. Voluntary

Both man and woman must be acting **voluntarily**. Force, fear and **duress** will all **invalidate** the marriage. But it must be real duress: for instance, social pressure and the desire to please one's parents do not invalidate the marriage.

The marriage will also **be invalid** if one of the couple does not realize what he or she is doing (e.g. if drink or old age **affects** their **awareness** of what is happening).

Similarly, if there was a mistake as to the **identity** of the other partner the marriage would **be invalid**. But other mistakes will not invalidate it. For instance, if the man is mistaken as to the **financial standing**, social status or career prospects of his wife, he cannot argue that he would not otherwise have married her and so claim that the marriage is invalid. Duress and social pressure can also invalidate the marriage. This can be a particular problem with arranged marriages.

A nineteen-year-old Hindu girl was forced into an **arranged marriage**. Had she not agreed, her parents would have thrown her out of the house, leaving her homeless and penniless. **The Court of Appeal** granted a declaration that the marriage was a **nullity** – the crucial question in these cases is whether the threats, pressure, or whatever it is, is such as to destroy the reality of the **consent** and **overbear** the **will** of the individual. So, in many ways it was the threat of **homelessness** and social **ostracism** that were the key factors in this case, and not so much the mere **parental** and social **pressure**.

This case should not be taken as showing that all arranged marriages can **be set aside**, but it is clear evidence of a change of attitude by the courts in being prepared to **tackle** this difficult **problem**.

Notes

development – обстоятельство, развитие
seizure – захват, похищение

payment – оплата; *зд.* выкуп
parental arrangement – договоренность между родителями
be regarded as – считаться, рассматриваться
be valid – быть действительным
voluntarily – добровольно
duress – принуждение
invalidate – делать недействительным
be invalid – быть недействительным
affect – влиять
awareness – осведомленность, сознание
identity – личность
financial standing – материальное положение
arranged marriage – брак по договоренности
Court of Appeal – апелляционный суд
nullity – аннулирование
consent – согласие
overbear – подавлять
will – воля, желание
homelessness – бездомность
ostracism – остракизм, изгнание из общества
parental – родительский
pressure – давление
be set aside – *зд.* расторгать, аннулировать
tackle the problem – решать проблему

Упражнения

4. Ответьте на вопросы.

1. What is generally the basis of marriage in Britain?
2. What must a marriage be to be legally valid?
3. What will invalidate the marriage?
4. Can all arranged marriages be set aside?

5. Выразите согласие или несогласие с данными утверждениями и обоснуйте свою точку зрения.

1. Now bride seizure, payment and parental arrangement are regarded as the normal methods for deciding on marriage partners.
2. To be legally valid, a marriage must be between two single people.
3. If there is a mistake as to the identity of the other partner the marriage would be invalid.
4. All other mistakes will also invalidate it.

B. Between Two Single People

Neither **party** can be already married. So they must both **be** either single, **widowed** or divorced. If one party is divorced, the final **decree of divorce** must have been **obtained** (the decree absolute). If either is married at the time of the ceremony the marriage will be **void** and the offence of **bigamy** will have been committed. In fact, bigamy **prosecutions** are **relatively** rare these days because the police do not prosecute if the **sole purpose** was to allow the couple to live respectably as man and wife. Only 20 per cent or so of bigamy cases are prosecuted. Obviously if the bigamist was acting **maliciously** or **fraudulently** then he or she would be prosecuted.

Problems arise when a married person separated from the other **spouse** many years ago and now wishes to remarry. To avoid the risk of a bigamy prosecution, the court should be asked to **grant** a decree of **presumption** of death and divorce, or to grant a divorce based on five years' separation.

Unless such an order is obtained there is always a risk that the second marriage will be bigamous, although there is a special defence for those who have not heard from their spouse for at least seven years and who have no reason to **suppose** that he or she is still alive. This defence, even if it **reduces** the risks of a bigamy **conviction**, may not be enough to save the second marriage. Almost certainly, the second, bigamous, marriage will be **null and void**, so the couple will be in the same position as if they had never been married.

Notes

party – сторона
be widowed – овдоветь
decree of divorce – постановление суда о разводе
obtain – приобретать
void – делать недействительным, аннулировать
bigamy – бигамия, двоеженство
prosecution – судебное преследование
relatively – относительно
sole purpose – единственная цель
maliciously – предумышленно
fraudulent(ly) – обманный, мошеннический
spouse – супруг
grant – предоставлять
presumption – презумпция
suppose – предполагать
reduce – снижать, уменьшать
conviction – признание виновным, осуждение
null and void – потерявший законную силу

Упражнения

6. Найдите в тексте словосочетания с данными юридическими терминами.
decree; offence; bigamy; presumption; conviction

7. Дайте словосочетания с данными глаголами.
to obtain; to commit; to arise; to grant; to reduce; to save

8. Ответьте на вопросы.
1. Why are bigamy prosecutions relatively rare these days?
2. What problems can arise when a married person separated from the other spouse many years ago now wishes to remarry?
3. What should be done to avoid the risk of a bigamy prosecution?

C. Who Are Over Sixteen

Since 1929 the minimum age for marriage has been sixteen. Before then, it was fourteen for boys and twelve for girls.

If a boy or girl of under sixteen is married, the marriage will be null and void. In addition, the child will be **committing a criminal offence.**

A person under the age of eighteen needs to obtain **parental**, or other **consent** to the marriage. If the consent is **forged**, or if the child states that he or she is over eighteen in order to make consent unnecessary, the marriage will remain valid, but the child will be committing a criminal offence. The marriage will only be invalid if the child is under sixteen.

Consents. A sixteen- or seventeen-year-old will need the **signed** consent of parents or anyone else with parental **responsibility.**

If for some reason one of the parents cannot give consent (e.g. because he or she cannot **be traced**), then special consent will be needed; the **registrar of marriages** can provide details.

If the parents refuse their consent the child can apply to the court for its consent. Although the application can be to a Family Proceedings Court (**a magistrates' court**), a **county court**, or the High Court, it is usually most **convenient** to apply to the local Family Proceedings Court. The child should go to the court as though he or she wanted to **issue an application** and explain the position to the **warrant officer.**

Notes

commit a criminal offence — совершить уголовное деяние (проступок)
parental — родительский
consent — согласие
forged — подделанный, фальшивый
signed — подписанный

responsibility – ответственность
be traced – быть найденным
registrar of marriages – регистратор
refuse – отказываться
magistrates' court – суд магистрата (в Англии)
county court – местный суд графства (в Англии) или округа (в США)
be convenient – быть удобным
issue an application – подать прошение, заявление
warrant officer – служащий, определяющий, законен ли брак

Упражнения

9. Объясните по-английски следующие понятия.

1. parental responsibility
2. to be null and void
3. to commit a criminal offence

10. Ответьте на вопросы.

1. Whose consent to the marriage does a person under the age of eighteen need to obtain in Britain?
2. Will the marriage remain valid if the parental consent is forged?
3. Where can the child apply to if the parents refuse their consent?
4. What court is it usually most convenient to apply to?

Text 3

THE LEGAL EFFECTS OF MARRIAGE

Getting married leads to the creation of new rights and new **obligations** between the couple. Amongst other things, they have a duty to maintain one another and to live together, and they **impliedly** agree to have sex with each other.

A. A New Name?

For a woman the most obvious change brought about by the marriage will usually be a change of name. However, there is no legal obligation on her to change her name and she can **retain** her **maiden name** if she wishes. She and her husband may also agree to **hyphenate** their surnames together.

If she chooses to adopt the husband's name on marriage, she is then **entitled** to keep her husband's name (and any title) even after he dies or after they divorce and remarry. **Alternatively**, she can **revert** to her maiden name if she prefers.

In English law, anybody can call themselves by whatever name they choose, and they can change their names as and when they wish.

B. A New Nationality?

No. Not automatically. Nationality is a political status of an individual and this is not affected by marriage. A British citizen who marries a foreigner can retain his or her citizenship – but may have **dual** citizenship (although this depends on the law of the other country involved). The UK law accepts dual citizenship but not every country does (e.g. the USA), so if a woman wants to **claim** US citizenship she may have to **give up** her British citizenship.

C. A New Domicile?

A wife need not **acquire** her husband's **domicile**, although in practice she will often do so. Domicile should not be confused with nationality, citizenship or **residence**.

Domicile is where a person has his or her **permanent** home or, if he or she is living abroad, where he or she intends to return to permanently.

Residence is the place where a person happens to be living; a person can be resident in several countries at the same time but can have only one domicile.

How domicile is decided. **At birth**, a baby will **normally** acquire its father's domicile, or if the father is dead, its mother's domicile. This is called the 'domicile of origin'.

In practice it is very difficult to change that domicile until the child is sixteen, but **thereafter** the child can acquire a 'domicile of choice', depending on the place where he or she is now permanently resident or intends to **reside** permanently.

Although a wife needn't acquire her husband's domicile on marriage, it will usually be the case that she will live with him and that she will plan to spend her life with him in his domicile. Thus, in practice, she will usually acquire that new domicile.

Notes

obligations – обязательства
implied – *подразумеваемый*
retain – сохранять
maiden name – девичья фамилия
hyphenate – писать через дефис
be entitled to – иметь право
alternatively – альтернативно, по выбору
revert – возвращаться
dual – двойной
claim – претендовать

give up – отказываться
acquire – приобретать
domicile – постоянное место жительства, юридический адрес
residence – местожительства, резиденция, местопребывание
permanent – постоянный
at birth – при рождении
normally – обычно
thereafter – с этого времени
to reside – проживать

Упражнения

***11. Укажите, в каком из приведенных значений данное слово употребляется в тексте.**

1. to maintain	a. поддерживать b. содержать c. утверждать
2. to adopt	a. усыновлять b. принимать c. усваивать
3. to be entitled	a. озаглавливать b. иметь право на
4. to claim	a. требовать, претендовать b. утверждать

12. Ответьте на вопросы.

1. What are the legal effects of marriage?
2. What is the difference between 'domicile' and 'residence'?

Text 4

CONTRACTUAL OBLIGATIONS BETWEEN MAN AND WIFE

Marriage is a contract, but the courts will not **enforce** the contract between husband and wife. For instance, if the woman was persuaded to marry the man because he said he was wealthy, she cannot **sue** him for **misrepresentation** if he lied about his **supposed wealth**.

The courts will not interfere with a **working** marriage. So, if a husband **arranges** to meet his wife at twelve o'clock but she does not keep the **appointment**, he cannot **hold her liable** for the losses and **expenses** he has **suffered**. This is all part of the **wear and tear of** marriage. The courts will ***intervene*** only if the couple clearly intended a legal relationship to follow on from an agreement, such as when they are discussing a business matter.

Different **considerations** arise if the marriage is **breaking down**. If it is no longer a working marriage the courts will intervene in extreme situations. So, if the couple decided to separate and drew up a **separation agreement**, the courts would probably enforce it if one of the parties did not **carry out** his or her part of the **bargain** (although the court could **override the terms** of the agreement if it was **unfair**).

Notes

contractual – договорный
obligations – обязательства
enforce – проводить в жизнь, оказывать давление
sue smb – возбуждать дело против кого-л.
misrepresentation – искажение, неправильное представление
supposed – предполагаемый
wealth – богатство, благосостояние
working – действующий
arrange – договориться
appointment – *встреча, свидание*
hold smb liable – считать ответственным кого-л.
losses – потери
expenses – затраты
suffer – *зд.* понести
wear and tear of – издержки, передряги
intervene – вмешиваться
considerations – соображения
break down – развалиться
separation agreement – соглашение супругов о раздельном проживании
carry out – выполнять
bargain – сделка
override the terms – не принимать во внимание, отвергать условия
unfair – несправедливый

Упражнения

13. Объясните по английски следующие понятия.
a working marriage; misrepresentation; to override the terms of the agreement; to keep the appointment

***14. Соотнесите слова в левой колонке с их определениями в правой.**

1. to enforce	a. termination of relationship between husband
2. to sue	and wife by mutual agreement or judicial decree

3. to break down	b. to carry out effectively
4. separation	c. to seek justice or right from a person by legal process
	d. to become inoperative or ineffective

15. Ответьте на вопросы.

1. Do the courts interfere with a working marriage? (give an example)
2. Who could override the terms of the separation agreement if it was unfair?

GLOSSARY

arranged marriage – брак по договоренности, по расчету
authority – власть
bargain – сделка
bigamy – бигамия, двоеженство
Child Benefit – пособие на ребенка
claim – претендовать
commit a criminal offence – совершить уголовное деяние (проступок)
contractual – договорный
conviction – осуждение, признание виновным
county court – местный суд графства (в Англии) или округа (в США)
court of appeal – апелляционный суд
custody – опека
decree of divorce – постановление суда о разводе
domicile – постоянное место жительства, юридический адрес
duress – принуждение
enforce – приводить в жизнь, оказывать давление
be entitled to – иметь право
forged – подделанный, фальшивый
fraudulent – обманный, мошеннический
hold smb liable – считать ответственным кого-л.
invalidate – делать недействительным
issue an application – подать заявление, прошение
legal/illegal – законный/незаконный
magistrates' court – суд магистрата (в Англии)
maliciously – предумышленно
man and wife – муж и жена
misrepresentation – искажение
nullity – аннулирование
null and void – потерявший законную силу
obligations – обязательства

ostracism – остракизм, изгнание из общества
override the terms – отвергать условия
parental arrangement – договоренность между родителями
presumption – презумпция
be prosecuted – подвергаться судебному преследованию
prosecution – судебное преследование
protection from violence – защита от насилия
punish – наказывать
registrar of marriages – регистратор
rights of succession – права наследования
residence – местожительство, местопребывания
separation agreement – раздельное проживание супругов
sue smb – возбуждать дело против кого-л.
taxes – налоги
through legislation – в судебном порядке
be valid; invalid – быть действительным; быть недействительным
void – аннулировать, делать недействительным
warrant officer – служащий, определяющий законен ли брак
working marriage – действующий брак

Ключи

1. 1. treat smb; 2. married couples; 3. responsibility for; 4. labor shortage; 5. Catholic Church; 6. are allowed; 7. consequently; 8. vote in elections; 9. raise taxes; 10. be dependent upon; 11. financial support; 12. strong powers; 13. transfer private property; 14. consider

11. 1a; 2b; 3b; 4a

14. 1b; 2c; 3d; 4a

UNIT SIX
Banking Law

Text 1

WHAT IS A BANK?

In the broadest sense, a bank is a financial **intermediary** that performs one or more of the following functions: **safeguards** and **transfers** funds, lends or **facilitates** lending, guarantees **creditworthiness**, and exchanges money. These services are provided by such institutions as **commercial banks, central banks, savings banks, trust companies**, finance companies, life insurers, and **investment bankers**.

A narrower and more common definition of a bank is a financial intermediary that accepts, transfers, and, most important, creates **deposits**. This includes such **depository institutions** as central banks, commercial banks, **savings and loan associations**, and **mutual savings banks**.

Banks are most frequently organized in **corporate form** and are owned either by private individuals, governments, or a combination of private and government interests. Although noncorporate banks, that is, single **proprietorships** and **partnerships**, are found in other countries, since 1863 all **federally chartered banks** in the USA must be corporations. Only a few states permit formation of noncorporate banks. All countries **subject** their banks, however owned, to government regulation and supervision, normally **implemented** by central banking authorities.

Notes

intermediary – посредник
safeguard – сохранять
transfer – переводить
facilitate – облегчать
creditworthiness – платежеспособность
commercial bank – коммерческий банк
central bank – центральный банк
savings bank – сберегательный банк
trust company – трастовая компания
investment banker – инвестиционный банкир
deposit – вклад клиента в кредитном учреждении в виде денег или ценных бумаг
depository institution – депозитное учреждение
savings and loan association – ссудно-сберегательная ассоциация (США)

mutual savings bank – взаимно-сберегательный банк (США)
corporate form – в виде корпорации
proprietorship – собственность
partnership – товарищество-ассоциация
federally chartered banks – коммерческие банки, зарегистрированные на федеральном уровне.
subject – подвергать
implement – осуществлять

Упражнения

***1. Соотнесите слова в левой колонке с их определениями в правой.**

1. to facilitate	a. to hand over the possession to smb.
2. to safeguard	b. to cause to undergo or experience; to expose
3. to transfer	c. to carry smth. into effect
4. to subject	d. to protect, to guard
5. to implement	e. to make easy, lessen the difficulty

***2. Укажите, в каком из приведенных значений данные слова употребляются в тексте.**

1. deposit
   a. money that is put or stored for safekeeping
   b. part payment of money that is or will be owed
   c. layer of solid matter left behind (often buried in the earth) after having been naturally accumulated
2. trust
   a. assured reliance on smb. or smth.
   b. responsibility
   c. property held and managed by one or more persons for the benefit of another or others
3. chartered
   a. established by charter
   b. certified
   c. hired, rented or leased

*** 3. Выразите согласие или несогласие со следующими утверждениями.**

1. A trust company can be called a bank in the broadest sense of this word.
2. Investment bankers, life insurers and commercial banks are all depository institutions.
3. Banks are seldom organized in corporate form.
4. Banks are sometimes owned by a combination of private and government interests.
5. All federally chartered banks must be corporations since 1963.
6. No country has ever tried to regulate the activities of the banks.

4. Ответьте на вопросы.

1. What is a bank in the broadest sense of the word?
2. Who owns banks?
3. Where can we find noncorporate banks?
4. Do all countries subject their banks to government regulation and supervision?
5. How is government supervision implemented?

Text 2

THE BASIS FOR BANKING OPERATIONS

Seventeenth-century English goldsmiths provided the model for contemporary banking. Gold stored with these **artisans** for safekeeping was expected to be returned to the owners on demand. The goldsmiths soon discovered that the amount of gold actually removed by owners was only a fraction of the total stored. Thus, they could temporarily lend out some of this gold to others, obtaining a **promissory note** for **principal** and **interest**. In time, paper certificates **redeemable** in gold coin were circulated instead of gold. Consequently, the total value of these banknotes in circulation exceeded the value of the gold that was exchangeable for the notes.

Two characteristics of this **fractional reserve banking** remain the basis for present-day operations. First, the banking system's **monetary liabilities** exceed its reserves. This feature was responsible in part for Western industrialization, and it still remains important for economic expansion. The excessive creation of money, however, may lead to inflation. Second, liabilities of the banks (deposits and borrowed money) are more **liquid** – that is, more readily convertible to cash-than are the **assets** (loans and investments) included on the banks' balance sheets. This characteristic enables consumers, businesses, and governments to finance activities that otherwise would be **deferred** or cancelled; however, it **underlies** banking's **recurrent** liquidity crises. When too many depositors request payment, the banking system is unable to respond because it lacks sufficient liquidity. The lack of liquidity means that banks must either abandon their promises to pay depositors or pay depositors until the bank runs out of money and fails. The **advent** of deposit insurance in the United States in 1935 did much to **alleviate** the fear of deposit losses due to bank failure and has been primarily responsible for the virtual absence of **runs on** U.S. **banks**.

Notes

artisan – ремесленник
promissory note – простой вексель
principal – номинальная или основная сумма кредита, займа

interest – процентные платежи
redeemable – выкупаемый, погашаемый
fractional reserve banking – банковская система, основанная на том, что часть депозитов банка должна поддерживаться в качестве установленных законом резервных требований.
monetary liabilities – денежные обязательства
liquid assets – ликвидные активы: наличные деньги и активы, которые могут быть превращены в наличные
defer – откладывать
underlie – лежать в основе
recurrent – повторяющийся
advent – появление
alleviate – смягчать
run on a bank – "набег на банк" – массовое изъятие вкладчиками депозитов из банка в связи с сомнениями в его финансовом положении

Упражнения

***5. Найдите в тексте английские эквиваленты данных словосочетаний.**
1. предоставлять займы; 2. переводить деньги; 3. по требованию; 4. со временем; 5. оставаться основой; 6. отказаться от обязательств.

***6. Соотнесите слова в левой колонке с их определениями в правой.**

1. promissory note	a. debts, sums of money that must be paid
2. liquidity	b. coming or arrival
3. liability	c. the state of being able to raise funds easily
4. advent	d. money lent on which interest is payable
5. principal	e. a signed promise to pay a stated sum of money to a specified person on a specified date or on demand

***7. Выразите согласие или несогласие со следующими утверждениями.**
1. The total value of paper certificates redeemable in gold coin never exceeded the value of the gold exchangeable for the notes.
2. The banking system's monetary liabilities exceed its reserves.
3. The excessive creation of money does not lead to inflation.
4. Liabilities of the banks are less liquid than assets.

5. When too many depositors request payment, the banking system is unable to respond.
6. The advent of deposit insurance in 1935 did nothing to prevent runs on US banks.

8. Ответьте на вопросы.

1. What did English goldsmiths discover when they started storing gold for safekeeping at the owners' request?
2. What happened when paper certificates started circulating instead of gold?
3. What causes liquidity crises?
4. When did the USA introduce deposit insurance?

Text 3

COMMERCIAL BANKING IN THE USA

Commercial banks are the most significant of the financial intermediaries, accounting for some 60 percent of the nation's deposits and loans. The first bank **to be chartered** by the new federal government was the Bank of the United States, established in Philadelphia in 1791. By 1805 it had eight branches and served as the government's banker as well as the recipient of private and business deposits. The bank was authorized **to issue** as **legal tender** banknotes exchangeable for gold.

In the next three decades the number of banks grew rapidly in response to the **flourishing** economy and to the system of "free banking", that is, the granting of a bank charter to any group that fulfilled **stated statutory conditions**. Government **fiscal operations** were handled initially by private bankers and later (after 1846) by the Independent **Treasury System**, a network of government collecting and **disbursing** offices. The National Bank Act (1864) established the **office of the comptroller** of the currency to charter national banks that could issue national banknotes (this authority was not revoked until 1932). A uniform currency was achieved only after a tax on nonnational banknotes (1865) made their issuance unprofitable for the state-chartered banks. State banks survived by expanding their deposit-transfer function, continuing to this day a unique dual banking system, whereby a bank may obtain either a national or a state charter.

The stability hoped for by the **framers** of the National Bank Act was not achieved; banking crises occurred in 1873, 1883, 1893, and 1907, with bank runs and systemic bank failures. The Federal Reserve Act (1913) created a centralized reserve system that would act as a **lender of last resort** to forestall bank crises and would permit a more elastic currency to meet

the needs of the economy. Reserve authorities, however, could not prevent massive bank failures during the 1920s and early 1930s.

The Banking Acts of 1933 and 1935 introduced major reforms into the system and its regulatory mechanism. Deposit banking was separated from investment banking; the monetary controls of the Federal Reserve were expanded, and its powers were centralized in its Board of Governors; and the Federal Deposit Insurance Corporation was created.

Notes

be chartered – получить лицензию, быть зарегистрированным
legal tender – законное средство платежа
stated statutory conditions – *объявленные уставные условия*
fiscal operations – фискальные операции (имеющие отношение к аккумулированию государственных доходов)
treasury system – система казначейства
disbursing – выплачивающий, расходный
office of comptroller of the currency – управление валютного контролера
framer – создатель
lender of last resort – кредитор последней инстанции

Упражнения

***9. Найдите в тексте словосочетания с данными терминами.**
уполномочивать; предоставлять лицензию; фискальные операции; законное средство платежа

***10. Соотнесите слова в левой колонке с их определениями в правой.**

1. intermediary	a. a person or a group of people having power
2. branch	b. a place where funds are kept
3. treasury	c. a division or subdivision of an organization
4. framer	d. acting as a link between groups or people
5. authority	e. a person who builds up or puts together

***11. Укажите, в каком из приведенных значений данное слово употреблено в тексте.**

1. to account
   a. to probe into, to analyze
   b. to consider
   c. to be the sole or primary factor
2. to issue
   a. to discharge, to emit
   b. to put forth or distribute officially
   c. to publish

3. to grant	a. to consent to carry out for a person b. to bestow or transfer formally c. to assume to be true
4. to handle	a. to deal with b. to try or examine with the hand c. to manage, to direct

12. Ответьте на вопросы.

1. Are commercial banks the most significant of all financial intermediaries?
2. When and where was the first US bank established?
3. What is the system of free banking?
4. What did the National Bank Act establish?
5. When was the authority to issue national banknotes revoked?
6. Why did state banks survive?

Text 4

LAWS REGULATING BANKS AND BANK ACCOUNTS

Banks and **bank accounts** are regulated by both **state and federal statutory law**. Bank accounts may be established by national and state **chartered banks**, and **savings associations**. All are regulated by the law under which they were established.

Until the early 1980's **interest rates** on bank accounts were regulated and controlled by the national government. A ceiling existed on interest rates for **savings accounts**. Interest payments on **demand deposit accounts** were generally prohibited. Banks were also prohibited from offering **money market accounts**. The Depository Institutions Deregulation Act of 1980 (DIDRA)1 eliminated the interest rate controls on savings accounts. The **restrictions** on checking and money market accounts were **lifted** nationwide.

The operation of checking accounts is governed by state law supplemented by some federal law. Article 4 of the Uniform Commercial Code, which has been adopted at least in part in every state, "defines rights between parties with respect to bank deposits and collections." Part 1 of the Article contains general provisions and definitions. Part 2 governs the actions of the first bank to accept the check (**depository bank**) and other banks that handle the check but are not responsible for its final payment (**collecting banks**). Part 3 governs the actions of the bank that is responsible for the payment of the check (**payer bank**). Part 4 governs the relationship between a payer bank and its customers. Part 5 governs **documentary drafts**. These are checks or other types of drafts that will only **be honored** if certain papers are first presented to the payer of the draft.

The banking crisis of the 1930's led to the development of federal insurance for deposits which is currently administered by the Federal

Deposit Insurance Corporation. Funding for the program comes from the premiums paid by member institutions. The bank accounts of individuals at institutions which are insured are protected for up to an aggregated total of $100,000.

Notes

bank accounts; to establish bank accounts – банковские счета; открыть счета
state and federal statutory law – федеральный уставной закон и уставной закон штата
chartered banks – банки, организованные на основании правительственной концессии
savings associations – сберегательные общества
interest rate – процентная ставка
savings accounts – сберегательные счета
demand deposit accounts – счета "до востребования"
money market accounts – депозитный счет денежного рынка США
lift restrictions – снимать ограничения
depository bank – банк депозитарий
collecting bank – инкассирующий банк
payer bank – банк-плательщик
documentary drafts – документированные тратты
to honor checks or drafts – оплатить чек, акцептовать тратту
aggregated total – общая сумма

Упражнение

***13. Соотнесите слова в левой колонке с их значениями в правой.**

1. interest	a. money put in a bank for safe-keeping
2. account	b. condition in a legal document
3. deposit	c. written order for payment of money by a bank
4. draft	d. statement of money paid or received
5. provision	e. money paid for the use of money

14. Составьте предложения, используя данные слова и словосочетания.
to lift restrictions; to honour draft; to prohibit smth; to contain general provisions

***15. Вычеркните лишнее слово.**

1. a. to regulate
   b. to pay
   c. to control
   d. to govern

2. a. draft
   b. cheque
   c. letter of credit
   d. interest
3. a. to eliminate
   b. to lift (restrictions)
   c. to prohibit
   d. to protect

***16. Выразите согласие или несогласие с данными утверждениями.**

1. Only national chartered banks can establish bank accounts.
2. A ceiling existed on interest rates for savings accounts until 1980.
3. Banks are regulated by federal statutory law only.
4. Under DIDRA restrictions on checking and money market accounts were lifted only in some states.
5. The operation of checking accounts is governed by state law supplemented by some federal law.
6. Article 4 of the Uniform Commercial Code has been adopted in seven states out of fifty.
7. Depository bank is the first bank to accept the cheque.
8. Documentary drafts will be honoured if certain papers are first presented to the payer of the draft.

17. Ответьте на вопросы.

1. What are banks and bank accounts regulated by?
2. Which bodies can establish bank accounts?
3. Does the national government prohibit interest payments on demand deposits account?
4. How do you understand the sentence: A ceiling existed on interest rates for savings account?
5. What does Article 4 of the Uniform Commercial Code define?
6. What led to the development of federal insurance for deposits?

GLOSSARY

account – банковский счет
demand deposit account – счет до востребования
money market account – счет денежного рынка США
savings account – сберегательный счет
allocation of losses – распределение убытков
authenticate – устанавливать подлинность

banking ombudsman – омбудсман
branch – отделение банка
branch banking – банковская деятельность на основе отделений
burden of proof – бремя доказывания
chartering – лицензирование
clearing house – банковская клиринговая палата
collecting bank – инкассирующий банк
comptroller of the currency – валютный контролер США
conveyancing – передача собственности одним лицом другому
depository bank – банк депозитарий
direct debits – прямое дебетование
documentary drafts – документированная тратта
enactment – *постановление*
fraud – мошенничество
gross negligence – крайняя небрежность
honour – оплатить
interest – процентные платежи
legal tender – законное средство платежа
lender of the last resort – кредитор последней инстанции
liquidity – ликвидные средства
partnership – товарищество
payer bank – банк плательщик
pinpoint vtpinpoint the liability – точно определять обязательства
place restrictions – *налагать ограничения*
principal – номинальная сумма займа
promissory note – простой вексель
proprietorship – собственность
receipt slip – расписка
run on a bank – "набег на банк"
state and federal statutory law – федеральный уставной закон и уставной закон штата

Ключи

1. 1e; 2d; 3a; 4b; 5c;
2. 1a; 2c; 3a
3. 1. right; 2. wrong; 3. wrong; 4. right; 5. right; 6.wrong
5. 1. to grant loans; 2. to transfer funds; 3. on demand; 4. in time; 5. to remain the basis; 6. to abandon promises
6. 1e; 2c; 3a; 4b; 5d

7. 1. wrong; 2. right; 3. wrong; 4. wrong; 5. right; 6. wrong

9. 1. to authorize; 2. to grant a bank charter; 3. fiscal operations; 4. legal tender

10. 1d; 2c; 3b; 4e; 5a

11. 3c; 2b; 3b; 4a

13. 1e; 2d; 3a; 4c; 5b

15. 1b; 2d; 3d; 4a

16. 1. wrong; 2. right; 3.wrong; 4. wrong; 5.right; 6.wrong; 7. right; 8. right

UNIT SEVEN
Intellectual Property

Text 1
INTELLECTUAL PROPERTY

Original creative works that **have economic value** and are **protected by law**. Intellectual property laws **reward the creators** of original works by **preventing others from copying, performing** or **distributing** those works **without permission**. They also **provide incentives** for people to **produce scientific** and **creative works** that **benefit** society at large. Some types of intellectual property are automatically protected by law from the moment of their creation. Other types, require a specific **grant of rights** from a government agency before they may be protected by law. Nearly all nations have laws protecting intellectual property. However, some nations do not vigorously **enforce intellectual property laws,** making **counterfeiting** a major problem in these areas.

Notes

intellectual property – интеллектуальная собственность
original creative works – подлинные художественные произведения
have economic value – иметь экономически выгодную ценность (стоимость)
be protected by law – быть защищенным законом; охраняться законом
reward the creators – вознаграждать создателей (творцов)
by preventing others from copying, performing or distributing – лишая других лиц возможности копировать, исполнять или распространять
without permission – без разрешения
provide incentives – создавать стимулы, стимулировать
produce scientific and creative works – создавать научные и творческие произведения (работы)
benefit – приносить пользу
grant of rights – разрешение на право
enforce intellectual property laws – обеспечивать соблюдение законов интеллектуальной собственности
counterfeiting – подделывание, фабрикация

Упражнения

***1. Найдите в тексте следующие глаголы и образуйте словосочетания с приведенными ниже словами.**

1. быть защищенным; 2. предотвращать; 3. копировать; 4. распределять; 5. производить; 6. обеспечивать

a. intellectual property; b. original creative works; c. others from coping; d. scientific and creative works; e. intellectual property laws; f. by law

***2. Образуйте различные части речи от следующих глаголов.**

to create, to value, to protect, to prevent, to produce, to require, to enforce

***3. Соотнесите слова в левой колонке с их определениями в правой.**

1. value	a. to hand, give or send out
2. to distribute	b. ownership, possessions
3. incentives	c. requiring the use of the intellect
4. property	d. that which rouses a person to action
5. intellectual	e. worth

4. Ответьте на вопросы.

1. In what way do intellectual property laws reward the creators of original works?
2. Do the laws provide incentives for producing new scientific and creative works?
3. Are some types of intellectual property automatically protected by society at large?
4. Do other types require a specific grant of rights from a government agency before they may be protected by law?

Text 2

COPYRIGHT

Copyright is the **body of law** that deals with the ownership and use of works of literature, music and art. The basic purpose of copyright is to **enrich our society's wealth of culture and information**. The means for doing so is to **grant exclusive rights** in the **exploitation** and **marketing** of a work as an incentive to those who create it.

Copyright law protects original works of authorship which are written down or recorded. The **U.S. International Trade Commission** has defines "copyright" as "a form of protection provided by" a national government to authors of **original works of authorship**, including **literary**, **dramatic**, **musical**, **artistic**, and certain other intellectual **works**". As with other types of policies for intellectual property, the **fundamental policy of copyright law**

is to **provide protection for** works so that they can be distributed in the public domain. In the United States, the **copyright protection lasts for the life of the author**, plus fifty years. **Copyright protection applies to:** literary works, plays, computer programs, and other kinds of works of authorship. The owner of a copyright may place **a copyright symbol** on the work as a **warning** to others that the work is protected. The symbol consists of the letter "C" **with a circle around it**: ©. **Following** the creation of the Copyright Act of 1976, most copyright law in the United States is governed by **federal statute. If copyright is violated,** the owner of the right may **seek damages for the copyright infringement**.

Example: Mrs. Author writes an original play and composes original music for the play. She **applies for** two **copyrights.** One for her play, and one for the music that she created for her play. She now has two copyrighted works which are protected.

Notes

body of law – совокупность правовых норм
ownership – частное владение
enrich our society's wealth of culture and information – умножать культурное и информационное богатство общества
grant exclusive rights – предоставлять эксклюзивные права
exploitation – пользование, использование
marketing – продажа
U.S. International Trade Commission – Международная торговая комиссия США
original works of authorship – подлинные авторские работы
literary works – литературные произведения
dramatic works – драматургические произведения
musical works – музыкальные произведения
artistic works – художественные произведения
the fundamental policy of copyright law – основная задача (цель) закона об авторском праве
provide protection for smth – обеспечивать защиту чего-л.
distribute – распространять, дистрибутировать
copyright protection lasts for the life of the author – защита авторского права действует пожизненно
copyright protection applies to – защита авторского права распространяется на
a copyright symbol – знак охраны авторского права

warning – предупреждение
with a circle around it – обведенный кружком
following smth – вслед за
federal statute – федеральный закон
violate copyright – нарушать авторское право
seek damages for copyright infringement – требовать возмещение убытков за нарушение авторского права
apply for copyright – обращаться за получением авторского права

Упражнения

***5. Заполните пропуски данными словами и словосочетаниями.**

a. lasts; b. infringement; c. ownership; d. the copyright symbol ©; e. be protected by copyright; f. works of authorship;

1. The main legal instrument for protecting ..... are patents and copyrights.
2. Copyright ..... requires that the works of the copyright owner have been copied.
3. It is usual to record the date of creation and mark it with ..... .
4. Intellectual property can only be protected if ..... is clear.
5. Copyright ..... longer then a patent.
6. Literature, artistic works, computer programs, movies and radio and television broadcasts can ..... .

***6. Составьте словосочетания, используя слова из обеих колонок.**

1. to grant	a. protection for works
2. works	b. federal statue
3. to provide	c. a copyright symbol
4. to place	d. intellectual
5. to be governed by	e. exclusive right

***7. Найдите в тексте следующие глаголы и образуйте от них различные части речи.**

обеспечивать, распространять, длиться, состоять из, управлять, нарушать

8. Ответьте на вопросы.

1. What is the definition of copyright given by the U.S.International Trade Commission?
2. What is the fundamental policy of copyright law?
3. How long does the copyright protection last in the U.S.?

4. What does a copyright symbol consist of?
5. May the owner of the right seek damages for the copyright infringement?
6. Can an author apply for two copyrights for one work?

Text 3

PATENT LAW

The law of patents **embraces the subject matter of products and processes. To be eligible for protection** an **invention** must be useful and **novel**. Before a patent is issued by the Patent and Trademark Office, the invention must be determined by an examiner, after detailed search of **prior art, to satisfy the statutory conditions**.

As defined by the U.S. International Trade Commission, a patent is "a grant issued by a national government **conferring the right to exclude others from** making, using, or selling the invention within the national territory". The U.S. patent law protects an invention or a new discovery for twenty years from the date the patent is granted. A patent may be granted for a product, a design, or **a process of making a product**. Patents are granted by the United States Patent and Trademark Office located in Washington, D.C. Once a patent is granted, any use **of the rights secured by the patent without permission from the inventor** will **constitute an infringement** for which **damages may be recovered.**

Example: Mr. Inventor creates a **device*** that can send people back in time. Since no one has ever created such a device, Mr. Inventor wants to protect his invention from being copied. Mr. Inventor patents his new invention which will now prohibit others from copying and marketing the invention without his permission. However, Mr. Copier makes and sells the exact invention patented by Mr. Inventor. Mr. Inventor may now sue Mr. Copier **for patent infringement** and recover damages, or Mr. Inventor may **seek an injunction.** If Mr. Copier makes the product abroad and attempts to import it into the United States, Mr. Inventor may **pursue an exclusion action** before the U.S. International Trade Commission to **keep the product out of the United States.**

Notes

embrace the subject matter of products and processes – охватывать вопросы, связанные с продукцией и производством
be eligible for protection – подлежать защите, иметь право на защиту
invention – изобретение
novel – обладающий новизной
prior art – *зд.* предшествующие произведения

satisfy these statutory conditions – удовлетворять положениям закона
confer the right – давать (предоставлять) право
exclude others from – препятствовать другим, лишать других права
process of making a product – процесс изготовления (производства) продукта
the rights secured by the patent – права, охраняемые патентом
without permission – без разрешения
inventor – изобретатель
constitute an infringement – являться (составлять) нарушением
recover damages – взыскивать убытки
a device – устройство, приспособление, механизм
sue smb for patent infringement – преследовать кого-л. по суду за нарушение патентных прав
seek an injunction – требовать судебный запрет
pursue an exclusion action – требовать запрещения ввоза товара
keep the product out of the United States – не разрешать товар (продукцию) на территории США

Упражнения

***9. Составьте словосочетания, используя слова из обеих колонок.**

1. to be eligible for	a. others from selling the invention
2. to satisfy	b. is granted
3. to exclude	c. an infringement
4. a patent	d. an invention
5. to constitute	e. the statutory conditions
6. to protect	f. protection
7. to recover	g. damages
	i. an invention

***10. Образуйте различные части речи от следующих глаголов.**

to use, to issue, to determine, to search, to satisfy, to define, to sell, to grant, to locate, to permit, to infringe, to attempt, to import, to pursue

11. Ответьте на вопросы.

1. What subjects does the law of patents embrace?
2. What statutory conditions must be satisfied for an invention to be patented?
3. How is a "patent" defined by the U.S. International Trade Commission?
4. What is the period of the U.S. patent law protection?

5. What may patent be granted for?
6. Once a patent is granted how are the rights secured?
7. In what cases can the U.S. International Trade Commission keep the product out of the United States?

Text 4

TRADE SECRET LAW

Trade secret law protects **confidential information** used in business. The U.S. International Trade Commission has defined a "trade secret" as "information, including a **formula, pattern, compilation, device, method, technique, or process that derives independent economic value, actual or potential**, from not being generally known, and not being readily **ascertained by proper means** by other persons who can obtain economic value from its **disclosure** or use, and is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. It can be an idea or information that has a **commercial value** not known. **The protection is aquired*** as soon as the idea is created, and the protection lasts as long as the information is kept a secret. However, someone may use and apply the trade secret if it is discovered independently by proper means.

The U.S.Customs Service and the U.S. International Trade Commission are both involved in the customs law aspects of international property law. For example, the U.S. Customs Service may **exclude** or **seize merchandise** that is protected by intellectual property law and which is registered with the Customs Service. The International Trade Commission may **issue an exclusion order for merchandise** that is protected by intellectual property law.

Notes

trade secret law – право коммерческой тайны
confidential information – конфиденциальные (секретные) сведения
formula – формула, рецепт
pattern – промышленный образец, модель (зарегистрированные)
compilation – компиляция (составленная путем заимствования из разных источников)
device – устройство, приспособление, механизм
method – метод, способ, прием
technique – техника, метод
process – способ, метод изготовления
derive independent economic value (from) – извлекать экономическую выгоду (из)

actual or potential – настоящий или будущий
ascertained by proper means – установлены (определены) законными средствами
disclosure – раскрытие, обнаружение
commercial value – коммерческая выгода
the protection is acquired – защита приобретается
exclude merchandise – запрещать ввоз товара
seize merchandise – конфисковать (наложить запрет на) товар
issue an exclusion order for merchandise – издать приказ о выдворении (запрете ввоза) товара

Упражнения

*** 12. Соотнесите слова в левой колонки с их значениями в правой.**

1. confidential	a. to get
2. compilation	b. gathering together, and arranging in order to find out, discover
3. to ascertain	c. private, secret
4. to apply	d. to put to practical use
5. to acquire	e. to find out, to discover

***13. Найдите в тексте следующие словосочетания и составьте с ними предложения.**

1. используемый в бизнесе; 2. не быть общеизвестным; 3. приобретать экономическую выгоду; 4. быть разумным; 5. хранить в секрете; 6. соответствующий способ; 7. быть вовлеченным в

***14. Составте словосочетания, используя слова из обеих колонок.**

1. trade	a. confidential
2. information	b. value
3. independent economic	c. proper
4. means	d. secrecy
5. to maintain its	e. secret
6. order	f. exclusion

15. Ответьте на вопросы.

1. What does trade secret law protect?
2. How has the U.S. International Trade Commission defined a "trade secret"?
3. When is the protection of Trade secret law acquired?
4. How long does the protection last?
5. How can merchandise be protected by the U.S.Customs Service?

Text 5

TRADEMARK LAW

The U.S. International Trade Commission has defined a "**trademark**" as "any word, name, symbol, or device, or any combination thereof, adopted and used by a manufacturer or merchant to **identify** his **goods** and **distinguish** them **from** those manufactured or sold by others". In the United States, trademarks can be registered on both the federal and state levels, but more-protection is available by registering the mark on the federal level. The symbol used to show that a product is registered as a trademark consists of a "**R**" **with a circle around it**: ®. If **a trademark is violated**, the owner of the right may seek damages for the trademark infringement or **exclusion orders** from the U.S. International Trade Commission.

Example: Mr. Merchant markets a drink called "Tangy Red ®". Mr. Merchant has a trademark on the name Tangy Red, and for the symbol TR ® which he uses on the side of the drink. Not only has Mr. Merchant protected his drink name and **logo**, but the trademarks also protect the public from buying one product they believe to be one thing, when in fact it is something else.

When a trademark has not been registered, the manufacturer or merchant may use the symbol "™" instead of ®.

Notes

trademark – торговый знак, марка
identify goods – идентифицировать, определять товары
distinguish from – отличать от..., различать
a "R" with a circle around it – буква R, обведенная кружком
violate a trademark – нарушать право торгового знака
exclusion order – запрещение ввоза товара в страну
logo – логотип

Упражнения

***16. Найдите в тексте следующие словосочетания.**

1. используемое производителем или продавцом; 2. или любое их сочетание; 3. произведенные или проданные другими; 4. на федеральном уровне или уровне штата; 5. защита доступна; 6. искать компенсацию за нарушение трудового знака

17. Соотнесите слова в левой колонке с их значениями в правой.

1. device	a. learn, show or prove what a person or thing is
2. to identify	b. failure to keep a law, or to obey a rule
3. to distinguish	c. an invention; something made for a special purpose
4. infringement	d. see or recognize the difference

***18. Выберите в правой колонке правильное определение юридических терминов.**

1. A patent is	a. an invention
	b. the right to include others in making, using or selling of the invention in the United States
	c. something that is obvious
2. Patents are considered to be	a. degrees
	b. inventions
	c. property
	d. contract rights
3. Copyright protection is conferred by	a. Washington D.C.
	b. federal law
	c. invention
	d. industry
4. A copyright is considered to be	a. property
	b. contract
	c. a copy
	d. an original
5. A trademark is a	a. word, group of words, or a logo that is used in connection with the sale of the goods to distinguish them from those made by someone else
	b. public right to use the word, groups of words, or logos
	c. state's right to use the word, group of words or logos
	d. voluntary protection
6. The symbol of a registered trademark is	a.¶
	b.©
	c.®
	d.™
7. The symbol for copyright is:	a. @
	b.§
	c. &
	d. ©

8. A trade secret is	a. duty to the public b. duty to the government c. an idea or information that has commercial value, because the secret is not known d. an idea or information that has no value, because it is known
9. Trade secret protection is acquired when	a. the idea or information is created b. permission is granted to use the secret c. the secret is written down d. the secret is video taped
10. To practice patent law before the U.S. Patent and Trademark Office, a person must take and pass the	a. intellectual property regional examination b. state bar examination c. chemist-in-training test d. patent bar examination

19. Закончите предложения.

1. Patent law protects.....
2. Copyright law protees.....
3. Trademark law protects.....
4. The secret formula for Coca-Cola ® could be an example of .....
5. Patent lawyers are highly sought after because .....
6. If a trademark is violated, the trademark owner may .....
7. The U.S.International Trade Commission can .....

20. Ответьте на вопросы.

1. How has the U.S.International Trade Commission defined a "trademark"?
2. On what level of registration is more protection available?
3. What does a trademark consist of?
4. If a trademark violated from whom may the owner of the right seek damages for the trademark infringement?
5. In what way is the public protected by the trademarks?

GLOSSARY

benefit – приносить пользу

copyright – авторское право, издательское право, право литературной собственности

copyright law – закон об авторском праве

adopt copyright law – принимать законы об авторском праве

apply for a copyright protection – обращаться за получением авторского права

copyright protection – защита авторского права
copyright protection applies to – защита авторского права распространяется на
copyright protection lasts for the life of the author – защита авторского права действует пожизненно
copyright symbol – знак авторского права
seek damages for copyright infringement – требовать возмещения убытков за нарушение авторского права
violate a copyright – нарушать авторское право
creator – творец, создатель
reward creators – вознаграждать создателей (творцов)
device – устройство, приспособление, механизм
devise – изобретать
disclouser – раскрытие, обнаружение
distribute – распространять, дистрибутировать
domain – среда, сфера действия
enforce – обеспечивать, реализовывать
enforce intellectual property law – обеспечивать соблюдение законов интеллектуальной собственности
exclude – исключать, не допускать
exclude other from – препятствовать другим, лишать других права
exclusion – исключение, недопущение, запрещение
pursue an exclusion action – требовать запрещения ввоза товара
information – информация, сведения
confidential information – конфиденциальные (секретные) сведения
infringement – нарушение (прав, закона, норм)
constitute an infringement – являться (составлять) нарушением
sue smb for patent infringement – возбуждать дело против кого-либо, преследовать кого-либо по суду за нарушение патентных прав
inventor – изобретатель
law – закон, право
body of law – совокупность правовых норм
intellectual property law – закон об интеллектуальной собственности
keep intellectual property law up to date – обеспечивать закон об интеллектуальной собственности в соответствии со временем
patent law – патентное право
trade secret law – право коммерческой тайны
violate the trade secret law – нарушать право коммерческой тайны
logo – логотип
merchandise – товар
seize merchandise – конфисковать (наложить запрет на) товар

issue an exclusion order for merchandise – издать приказ о выдворении (запрете ввоза) товара
exclude merchandise – запрещать ввоз товара
method – метод, способ, прием
novel – обладающий новизной, дополняющий, изменяющий
novelty – новинка, новизна
object – предмет
physical object – вещественный предмет
ownership – собственность, право собственности
transfer of ownership – передача права собственности
patent – патент
grant patents – предоставлять патенты
permission – разрешение
without permission – без разрешения
prevent – предупреждать, предотвращать
by preventing others from copying, performing or distributing – лишая других лиц возможности копировать, исполнять или распространять
process – способ, метод изготовления
produce – производить, создавать
produce scientific and creative works – создавать научные и творческие произведения
product – изделие, продукт, продукция, товар
promote – развивать
property – собственность, имущество
intellectual property – интеллектуальная собственность
protect – защищать, охранять, покровительствовать
be protected by law – быть защищенным законом, охраняться законом
protection – защита
be eligible for protection – подлежать защите, иметь право на защиту
copyright protection – защита авторского права
legal protection – юридическая защита и охрана
provide protection for smth – обеспечивать защиту чего-л.
the protection is acquired – защита приобретается
public – публика
recover damages – взыскивать убытки
right – право
confer the right – давать, предоставлять право
exclusive rights – эксклюзивное право
grant exclusive right – предоставлять эксклюзивные права
grant of rights – разрешение на право
hold rights – обладать правами

retain rights – сохранять права
rights secured by the patent – права, охраняемые патентом
secure – обезопасить, защитить
statute – закон, статут
intellectual property statutes – законы (положения) об интеллектуальной собственности
technique – техника, метод
trademark – товарный знак
treaty – договор, соглашение
value – ценность, стоимость, цена
derive economic value from – извлекать экономическую выгоду из
have economic value – иметь экономически выгодную стоимость, ценность
warning – предупреждение
work – работа, произведение
artistic work – художественное произведение
creative work – творческое (художественное) произведение
dramatic work – драматургическое произведене
literary work – литературное произведение
musical work – музыкальное произведение
original work of authorship – подлинная авторская работа
scientific work – научная работа

Ключи

1. 1. to be protective (f); 2. to prevent (c); 3. to copy (b); 4. to distribute (d); 5. to produce (a); 6. to enforce (e)

2. to create – creation, creative, creator, creature
to value – value, valuable, valuation, valued, valueless
to protect – protection, protectionism, protectionist, protective, protector, protectorate
to prevent – preventable, preventive, prevention
to produce – produce, producer, product, production, productive, productivity
to require – requirement, requisite, requisition
to enforce – enforceable, enforcement.

3. 1e; 2a; 3d; 4b; 5c

5. 1e; 2b; 3c; 4f; 5a; 6d

6. 1e; 2d; 3a; 4c; 5b

7. to provide – provider, provided, provision;
to distribute – distributor, distribution, distributive;
to last – last, lastly, lasting;
to consist – consistence, consistent

to govern – governess, government, governor;

to violate – violation, violence, violent, violently.

9. 1f; 2e; 3a; 4b; 5c; 6i; 7g

10. to use – use, useful, usefully, usefulness, useless, uselessly, uselessness, user

to issue – issue, issueless, issuer

to determine – determinable, determinant, determinately, determination, determinative, determined, determinism

to search – search, searcher, searching, searchingly

to satisfy – satisfaction, satisfactory

to define – definition, definitely, definite

to sell – seller, sellable

to grant – grant, grantor, granted, grantee

to locate – locate, locally, location

to permit – permission, permissive, permissible

to infringe – infringement

to attempt – attempt

to import – import, importable, importer

to pursue – pursuance, pursuant, pursuer

12. 1c; 2b; 3e; 4d; 5a.

13. 1. used in business; 2. not being generally known; 3. to obtain economic value; 4. to be reasonable; 5. to keep a secret; 6. proper means; 7. to be involved in

14. 1e; 2a; 3b; 4c; 5d; 6f.

16. 1. used by a manufacturer or merchant; 2. or any combination thereof; 3. manufactured or sold by others; 4. on both the federal and state level; 5. protection is available; 6. to seek damages for the trade mark infringement

17. 1c; 2a; 3d; 4b

18. 1b; 2d; 3b; 4a; 5a; 6c; 7d; 8c; 9c; 10d

UNIT EIGHT
Tort Law

Text 1
THE LAW OF TORTS

The law of "tort" is essentially the law of injuries and remedies for those injuries. Torts can thus include **assault**, **battery**, **false imprisonment**, **intentional infliction of emotional distress**, **negligence**, **invasion of privacy**, **defamation**, **fraud** or **mispresentation**, **wrongful conversion**, **trespass**, and other **wrong**, such as **product liability**. Some of these wrongs can be both civil and criminal in nature. A battery, for example, may **be prosecuted by the state** as a **violation of the criminal statutes**. The offender may **be sentenced to prison** and be ordered to **pay a fine to** the state. In some cases, he may also **be ordered** to **pay restitution** to the **victim**. However, the battery may also be a civil tort as well. The victim (the **plaintiff**) may **sue in civil court** for the tort of battery (and any other torts that may be alleged, such as intentional infliction of emotional distress). If the plaintiff is successful, the defendant will be ordered to pay **compensatory damages** (to "compensate" for the injury) and **punitive damages** (to "punish" the defendant for having caused the act). In the United States, it is commonly believed that courts will **enter punitive damages** in an amount that is roughly three times the size of the compensatory damages (which are sometimes called the "special damages" by plaintiffs lawyers).

In his book, *An Introduction to the Legal System of the United States*, Professor Allan Famsworth described the field of torts distinguished from criminal law and contract law. He wrote:

*The field of torts **embraces** a group of civil wrongs, other than **breach of contract**, that **interfere with** person, property, reputation, or **commercial or social advantage**. While such an act, such as an assault, may sometimes be both a **crime punishable by the state** in a **criminal prosecution** and also a tort actionable by the victim in a suit for damages, the criminal prosecution and the damage action are quite separate and unrelated proceedings. The **essential purpose** of the law of torts is compensatory and, though punitive damages may occasionally be awarded, its function is distinct from that of criminal law. Criminal law is essentially punitive and an injured party is not awarded compensation in the criminal proceeding.*

Notes

assalt – нападение, словесное оскорбление и угроза физической расправы

battery – побои, избиение
false imprisonment – незаконное лишение свободы, тюремное заключение
intentional infliction of emotional distress – намеренное нанесение моральной травмы
negligence – небрежность, халатность
invasion of privacy – посягательство на частную жизнь, вторжение в частную жизнь
defamation – диффамация, клевета
fraud – обман, подлог
misrepresentation – введение в заблуждение
wrongful conversion – незаконное обращение вверенного имущества в свою пользу, присвоение имущества, *противоправный перевод денег*
trespass – нарушение чужого правовладения
wrong – правонарушение, деликт, вред
product liability – обязательство производителя компенсировать ущерб нанесенный покупателю или пользователю дефективными товарами
be prosecuted by the state – преследовать в судебном порядке
violation of the criminal statutes – нарушение уголовных статутов
be sentenced to prison – приговорить к тюремному заключению
pay a fine to smb – выплачивать штраф кому-л.
be ordered to do smth – приказывать, предписать, требовать, давать распоряжение выполнить
pay restitution – выплатить возмещение
restitution – восстановление первоначального правового положения, *возмещение, реституция*
victim – потерпевший, жертва
plaintiff – истец
sue in civil court – предъявлять гражданский иск, выступать в качестве истца по гражданскому делу
damages – возмещенные убытки, ущерб
compensatory damages – компенсаторные (фактические) убытки
punitive damages – штрафные, карательные убытки
enter damages – начинать процесс о возмещении убытков
in an amount that is roughly three times the size of the compensatory damages – в размере приблизительно в три раза большем чем фактические убытки
embrace – обнимать, охватывать
breach of contract – нарушение договора
interfere with – вредить, вмешиваться

commercial or social advantage – коммерческая или социальная выгода
crime punishable by the state – преступление, наказуемое государством
criminal prosecution – уголовное преследование
essential purpose – основная цель
is distinct from – отличный от
punitive – карательный

Упражнения

***1. Найдите в тексте следующие глаголы и составьте с ними предложения.**
1. причинять вред; 2. включать; 3. преследовать в судебном порядке; 4. быть приговоренным; 5. приказывать; предписывать; 6. предъявлять иск; 7. охватывать; 8. вмешиваться; 9. присуждать

***2. Образуйте глаголы от следующих существительных, переведите их на русский язык.**
injury, remedy, assault, imprisonment, infliction, invasion, conversion, trespass, product, violation, offender, defendant, damage, punishment, cause, compensation, prosecution, proceeding, award

***3. Соотнесите слова в левой колонке с их определениями в правой.**

1. distress	a. harm done to a person's reputation
2. negligence	b. willful deception and dishonesty
3. privacy	c. take another person's money, property, ect. and use it as if it were one's own
4. defamation	d. personal; not for the public
5. fraud	e. carelessness; failure to take action or take proper care
6. conversion	f. great pain or sorrow
7. statute	g. punishment, injustice, injury
8. fine	i. the person against whom the accusition is brought in a trial
9. plaintiff	j. hitting hard and often
10. battery	k. one who charges another in a court of law
11. defendant	l. a sum of money paid as a punishment for breaking a law
12. wrong	m. a law
13. punitive	

4. Ответьте на вопросы.
1. What can "torts" include?
2. Give some example of wrongs that can be both civil and criminal by nature.

3. In what case will the defendant be ordered to pay compensatory damages and punitive damages?
4. What is commonly believed an amount of punitive damages ("special damages")?
5. What is the essential purpose of the law of torts?
6. In what aspect is the function of the law of torts distinct from that of criminal law?

Text 2

KINDS OF TORTS

There are two chief categories of torts: **intentional torts** and torts **resulting from negligence**. The core element in an intentional tort is an **intent**, or **purpose, to cause harm to another. The law provides** that a person has intent if he or she **desires to cause the consequences of his or her act**, or believes that **the consequences are substantially certain result from the act**. Intentional torts **fall into** two categories: ***torts against a person*** and ***torts against property***.

Negligence **refers to** the **failure of a person to exercise sufficient care in his or her conduct**. When a person's conduct **falls below the reasonable expectation of society** and **causes foreseeable harm to another**, the person has acted **negligently**. Society's expect known in **torts based on negligence** as **the legal duty of care** – is that an individual **reasonably prudent and careful person** would act **in similar circumstances**. A person can act **negligently** by doing something that a reasonable person would not do or by failing something that a reasonable person would do. The law does not require that the person has an intent to cause harm.

Notes

intentional tort – умышленный (преднамеренный) проступок
result from negligence – происходить (проистекать) из-за небрежности, халатности
intent – намерение
purpose – цель
cause harm to another – причинять вред другому лицу
the law provides – закон предусматривает
desire to cause the consequences of his or her act – желать вызвать (получить) определенные последствия (результаты) его или ее действий
the consequences are substantially certain to result from the act – результатом действия являются неизбежные последствия
fall into – делиться, распадаться

torts against a person – нарушения против личности
torts against property – нарушения против собственности
refer to – относиться, принадлежать
the failure of a person to exercise sufficient care in his or her conduct – неспособность личности проявлять разумную осторожность в поведении
fall below the reasonable expectation of society – *зд.* выходить за благоразумные рамки, накладываемые обществом
cause foreseeable harm to another – нанести сознательный ущерб другому лицу
act negligently – поступать безответственно
torts based on negligence – правонарушения в результате неосторожности (халатности, небрежности)
the legal duty of care – юридическая обязанность соблюдать осторожность
reasonably prudent and careful person – разумно осмотрительный и осторожный человек
in similar circumstances – в подобных обстоятельствах

Упражнения

***5. Найдите в тексте, переведите на русский язык и употребите в собственных предложениях следующие словосочетания.**

1. resulting from; 2. the core element; 3. to cause harm; 4. to believe; 5. the consequences; 6. certain result; 7. to fall into; 8. the failure; 9. foreseeable; 10. based on; 11. prudent; 12. to act negligently; 13. to have an intent

***6. Составьте словосочетания, используя слова из обеих колонок.**

1. torts	a. sufficient care
2. torts	b. resulting from negligence
3. to cause	c. harm
4. to fall into	d. international
5. to exercise	e. two categories
6. to act	f. negligently

***7. Выберите определение для каждого из следующих юридических терминов.**

1. tort
   a. a German or Austrian cake
   b. a debt owed to the sovereign
   c. a civil wrong or private injury not based in contract law
   d. an involuntary action which amounts to a criminal offense because of an actual or potential injury

2. assault
   a. a mineral from the dead sea
   b. a military invasion
   c. the civil wrong of inflicting actual bodily injury on another
   d. the act of intentionally placing another person in fear of bodily injury

3. punitive damages
   a. damages to compensate for injury
   b. damages in a civil suit that are meant to punish the wrongdoer for causing injury
   c. "nominal" or minimal damages
   d. non-monetary damages, such as an injunction (injunctive relief) or "specific performance" of a contract obligation

4. intentional infliction
   a. a cause of action that allows after a person is insulted
   b. the grief a child will bring upon his parents
   c. a cause of action for recovery when a defendant's behavior toward a plaintiff is so outrageous and extreme that it causes serious emotional distress
   d. striking another person intentionally

5. false imprisonment
   a. placing a convicted defendant in a maximum security prison
   b. description of when the judge and jury disagree about a sentence
   c. a criminal imprisonment for civil wrong
   d. unlawful confinement of a person against that person's will

6. negligence
   a. forgetfulness
   b. willful misconduct
   c. necessity defense
   d. breach of a duty that proximately caused an injury

7. trespass
   a. the act of entering another's land without permission
   b. a motion before trial in a tort action
   c. when a lawyer invades the personal life of a client
   d. an interference with one's enjoyment of life

8. intent
   a. where desert nomads live
   b. the name given to the action that a person performs while committing a tort
   c. the desire to cause a certain result or to act with substantial knowledge that an injury will result
   d. the singular form of the word 'intense'

9. reasonably prudent person
   a. a risk taker
   b. an investor in the stock market
   c. a fictional man or woman whose anticipated reactions to certain events will provide the standard for determining a defendant's liability in a tort action
   d. the actual conduct of a particular defendant in a civil or criminal action

8. Ответьте на вопросы.

1. What are two chief categories of torts?
2. What is the core element in an intentional tort?
3. In case of an intentional tort does a person believe that the consequences of her or his are substantially certain?
4. Into what two categories do intentional torts fall?
5. In what cases has a person acted negligently?
6. What is the legal duty of care?

GLOSSARY

advantage – преимущество, благоприятное положение, льгота, польза, выгода
commercial or social advantage – коммерческая или социальная выгода
award – выносить решение, присуждать
assault – нападать, грозить физическим насилием
battery – побои, избиение
cause – причинять, заставлять, вызывать
cause harm to – принять, наносить вред, ущерб
cause the consequences – вызвать, получить последствия
claim – иск
private claim – частный иск
commit – совершать, обязывать, поручать, вверять
commit a tort – совершать правонарушение
conversion – обращение вверенного имущества в свою пользу, присвоение имущества
wrongful conversion – незаконное обращение вверенного имущества в свою пользу
convert smth to one's own use – обратить что-л. в свое пользование
compensation – компенсация, возмещение
compensate – компенсировать, возмещать
provide compensation – обеспечивать, предоставлять компенсацию

compensatory damages – компенсаторные (фактические) убытки
contract – договор, контракт; заключать договор, контракт
breach of contract – нарушение договора
chattels – движимое имущество
damages – убытки, ущерб, возмещение, компенсация убытков
compensatory damages – компенсаторные (фактические) убытки
damage ... property – нанести ущерб собственности
enter damages – начинать процесс о возмещении убытков
punitive damages – карательная компенсация, штрафные убытки
recover damages – возмещать ущерб, убытки
special damages – реальные, фактические убытки, определяемые особыми обстоятельствами дела
defamation – клевета, диффамация
fine – штраф; налагать штраф
pay a fine – выплачивать штраф
fraud – обман, мошенничество; обманщик, мошенник
harm – вред, ущерб
cause foreseeable harm to smb – нанести сознательный вред кому-л.
cause harm – наносить вред
harm sustained – причиненный вред, ущерб
harmful – вредный
harmful bodily contract – телесное повреждение
imprisonment – тюремное заключение, лишение свободы
false imprisonment – незаконное лишение свободы, тюремное заключение
inflict – наносить удар, причинять ущерб, налагать (наказание)
infliction – нанесение удара, причинение ущерба
infliction of emotional distress – нанесение моральной травмы
intentional infliction of emotional distress – намеренное нанесение моральной травмы
injury – вред ,телесное повреждение, ущерб
cause injury – причинять вред, нанести ущерб, повреждение
remedy injury – возмещение ущерба, вреда
suffer injury – пострадать от ущерба, вреда, телесного повреждения
intent – намерение, цель
intentional – умышленный, преднамеренный
intentional tort – умышленный (преднамеренный) проступок
invade – вторгаться, посягать на права
invade smb's property – посягать на чью-л. собственность
invasion – вторжение, посягательства на права

invasion of privacy – посягательство на частную жизнь
interference – вмешательство, помеха
unlawful interference with another's property – незаконное вмешательство в чужую собственность
interfere with – сталкиваться, мешать, служить помехой
law – право, закон
lawsuit – судебное дело, иск, тяжба, правовой спор
criminal law – уголовное право
liable – ответственный, обязанный, подлежащий
be liable for – подлежать ответственности за что-л.
liability – ответственность
misrepresentation – введение в заблуждение
negligence – небрежность, халатность
act negligently – поступать безответственно, халатно
offend – нарушать
order – приказывать, предписывать, требовать
permission – разрешение
without permission – без разрешения
plaintiff – истец
primitive – карательный
prison – тюрьма
be sentenced to prison – быть приговоренным к тюремному заключению
proceeding – иск; обращение за судебной помощью; процессуальное действие; рассмотрение дела в суде, судебное разбирательство и судебное преследование
groundless criminal proceeding – необоснованное судебное преследование
product – изделие, продукт, продукция, товар
defective products – некачественные товары
product liability – обязательства производителя компенсировать ущерб, нанесенный дефективными товарами, покупателю или пользователю
prosecution – судебное преследование, обвинение
be prosecuted by the state – преследоваться в судебном порядке
criminal prosecution – уголовное преследование
malicious prosecution – злонамеренное судебное преследование
prosecute – преследовать (в судебном порядке), обвинять
punish – наказывать
punishable – наказуемый
be punishable by the state – наказуемый государством

punishment – наказание
restitution – восстановление первоначального правового положения; возмещение, реституция
pay restitution – выплатить возмещение
sue – искать в суде, выступать в качестве истца, предъявлять иск
sue in civil court – предъявлять иск в гражданский суд
tort – деликт, гражданское правонарушение
commit a tort – совершать правонарушение
field of torts – сфера (область) деликтов
intentional tort – предумышленное правонарушение
law of torts – деликтное право
personal tort – деликт против личности
property tort – имущественное правонарушение (долг)
torts against a person – нарушение против личности, гражданское правонарушение
tort against property – нарушение против собственности
torts based on negligence – правонарушение в результате неосторожности, небрежности
trespass – нарушение чужого правовладения
victim – жертва
violation – нарушение (права, закона, договора)
violation of the criminal statutes – нарушение уголовных статутов
violate – нарушать (право, закон, договор)
wrong – правонарушение, деликт; вред

Ключи

1. 1. to injure; 2. to include; 3. to prosecute; 4. to be sentenced; 5. to order; 6. to sue; 7. to embrace; 8. to interfere with; 9. to award

2. to injure – причинять вред, телесное повреждение, ущерб
to remedy – возмещать
to assault – нападать, грозить физическим насилием
to imprison – заключать в тюрьму, лишать свободы
to inflict – наносить удар, причинять ущерб
to invade – вторгаться, посягать на права
to convert – обращать (в свою пользу)
to trespass – нарушать чужое правовладение
to produce – производить
to violate – нарушать (право, закон, договор)
to offend – нарушать (закон, права)
to defend – защищать
to damage – наносить ущерб

to punish – наказывать
to cause – вызывать, являться причиной
to compensate – возмещать, компенсировать
to prosecute – преследовать (в судебном порядке), обвинять
to proceed – рассматривать дело в суде
to award – выносить решение, присуждать

3. 1f; 2e; 3d; 4a; 5b; 6c; 7m; 8l; 9k; 10j; 11i; 12h; 13g

5. 1. проистекающий из; 2. основная составляющая, суть; 3. причинять вред; 4. считать, полагать; 5. последствия; 6. определенный результат; 7. делиться, распадаться; 8. провал, неудача; 9. предвиденный; 10. основанный на; 11. осмотрительный; 12. поступать безответственно; 13. иметь намерение

6. 1d; 2b; 3c; 4e; 5a; 6f

7. 1c; 2d; 3b; 4c; 5d; 6d; 7a; 8c; 9c

UNIT NINE
International Law

Text 1

INTERNATIONAL LAW

International law constitutes that **body of rules** which **governs** the relationships between **sovereign states**. These rules of law **emanate** from the free wills of states as expressed in **conventions** or by usages which are generally accepted as expressing principles of law. The object of these rules is to regulate the relations between these **co-existing** independent **communities** as means of achieving common aims **deemed** important in the collective opinion of the international community. See the Lotus Case (1927). Since international law is the product of forces within international society, in order to understand the nature of the international legal system, it is necessary to analyse the structure and processes which function within the global society.

Historically, although several systems of international law have existed since antiquity, contemporary international law has its origins in Medieval Europe. Arguably, the most **notable** historic development was the signing of the Peace of Westphalia 1648 which established an embryonic sovereign state system in Europe. Prior to this agreement, the creation of a sovereign state system had been **retarded** by the transnational authority of the Pope in spiritual matters and the control of the Holy Roman Emperor in political concerns. In the signature of the Peace of Westphalia the Emperor acknowledged restrictions on his dominion in favour of the territorial autonomy of the various nation states which had previously composed the Empire, whilst simultaneously the treaty recognised the limits of the authority of the Pope.

International society since then has remained a pluralistic structure of sovereign states. Sovereignty in the relations between states is synonymous with independence. This independence allows states to regulate the internal constitutions of their territories and to enter into international relations with other sovereign states.

Notes

international law – международное право
body of rules – *зд.* свод правил
govern – управлять, руководить
sovereign states – суверенные государства
emanate – происходить

convention – конвенция
co-existing – сосуществующие
community – общность, общество
deem – считать что-л. необходимым
notable – значительный, важный
retard – замедлять

Упражнения

*** 1. Соотнесите слова в левой колонке с их определениями в правой.**

1. to emanate from	a. noteworthy
2. deem	b. to make slow
3. arguable	c. to consider
4. notable	d. open to discussion
5. to retard	e. inside, domestic
6. internal	f. to come from

***2. Найдите в тексте английские эквиваленты данных словосочетаний.**

1. средство достижения общих целей; 2. международное сообщество; 3. подписание договора; 4. признать ограничения; 5. в пользу территориальной автономии

3. Ответьте на вопросы.

1. How can you define international law?
2. What is necessary to do to understand the nature of the international legal system?
3. What is the origin of contemporary international law?
4. In what case can we say that sovereignty is synonymous with independence?
5. What is the relationship between law and society?
6. What is the structure of global society?

Text 2

SOURCES OF INTERNATIONAL LAW

Collectively the 'sources' of international law **constitute** that reservoir of **authoritative rules and principles** to which the international lawyer must refer in order to **ascertain the content of the law**. An international lawyer must be able to deduce rules of international law in order **to substantiate legal opinions** supporting particular courses of action. The **cogency** and consistency of a legal argument will stand or fall depending on the familiarity of the lawyer with these sources of law. It is therefore of the utmost importance that each student understand the nature of these sources and

their interaction with each other and is accustomed to the methodology involved in citing these sources as authority for particular propositions.

Formal and Material Sources of Law

A distinction is frequently made by commentators between formal and material sources of law:

1. Formal sources of law establish **constitutional processes** and methods which **authorise** the creation of **binding legal rules** which are generally applicable to the subjects of the legal system.

2. Material sources of law provide evidence of particular or specific rules of law which, when proven, are **applicable** to a particular dispute.

A formal source is that from which a rule of law **derives** its force and validity. A material source is that from which the content, not the validity of the law, is derived. The material source provides the substance of the rule to which the formal source gives force and authority.

The International Court of Justice (ICJ) shall apply the following sources of law to any disputes submitted for settlement:

3. International convention whether general or particular, establishing rules expressly **recognised** by the **contesting states**;

2. International custom, as evidence of a general practice accepted as law;

3. The general principles of law recognised by civilised nations;

4. The **judicial decisions** and the teachings of the most highly qualified publicists of the various nations, as **subsidiary means** for the determination of the rules of law.

Notes

constitute – составлять
authoritative rules and principles – авторитетные права и принципы
refer to – ссылаться на что-л.
ascertain – выяснять, устанавливать
content of the law – содержание права
substantiate – обосновать
legal opinion – юридическое решение
cogency – убедительность
constitutional processes – конституционные процедуры
authorise – давать разрешение, уполномочивать
binding legal rules – обязательные юридические правила
applicable – применительный
derive – черпать
recognize – признавать
contesting states – конкурирующие, спорящие государства
judicial decisions – судебные решения
subsidiary means – вспомогательные средства

Упражнения

***4. Найдите в тексте английские эквиваленты данных словосочетаний.**

A. 1. источники международного права;
2. авторитетные правила;
3. содержание закона;
4. выводить правила (из чего-л.).
5. последовательность;
6. взаимодействие друг с другом.

B. 1. применимый;
2. спор (разногласие);
3. признавать правила;
4. вспомогательное средство.

*** 5. Составьте словосочетания, используя слова из обеих колонок.**

1. refer to	a. evidence
2. to deduce	b. importance
3. the utmost	c. principles
4. to establish	d. force and validity
5. to provide	e. rules
6. to derive	f. constitutional processes

6. Ответьте на вопросы.

1. What are the sources of international law?
2. What is the difference between formal and material sources of law?
3. What are the responsibilities of the International Court of Justice?

Text 3

THE EUROPEAN COMMUNITY

Many people, including most politicians and lawyers, thought in 1972 that joining **the European Community** was not very different from joining many other international organizations (like the United Nations, for example). An ordinary international treaty does not **impinge on the sovereignty of** Parliament in the legal sense, because the only effect of failure **to comply with** such a treaty is to put the country in **breach of** international law. That is no doubt a matter of some seriousness, and indeed the UK government probably treats a breach of international law more seriously than most other governments in the world, but at the same time, it is in a sense less serious than a breach of our own national law. The reason for this is that courts in the UK must observe and apply the law of England (or Scotland, or Northern Ireland as the case may be); every court in the country must do this, so if criminal charges or civil proceedings are brought in England, the court must as a matter of course

apply English law. Equally, any person can **bring proceedings** in those courts, so if the government acts illegally it can usually be challenged quickly and easily in our own national courts.

There is today widespread **discrepancy** in use of the terms 'European Community' and 'European Union'. This discrepancy comes from the Treaties themselves. The Community is still the correct legal term for those matters which are subject to the control of **the European Court** in respect of which the law itself **governs** the relationships between members. The further matters such as the attempt to have a **common foreign policy**, and eventually **monetary union**, are matters in respect of which "European Union" is the correct term.

Notes

the European Community – Европейское Сообщество
impinge on the sovereignty of – посягать на суверенитет
comply with – подчиняться чему-л.
breach of – нарушение
bring proceedings – подать в суд
discrepancy – несоответствие
the European Court – Европейский Суд
govern – управлять, руководить
common foreign policy – общая внешняя политика
monetary union – единая денежная система

Упражнения

***7. Соотнесите слова и словосочетания в левой колонке с их определениями в правой.**

1. to impinge	a. to obey
2. a breach of	b. lack of agreement
3. discrepancy	c. total power, self-government
4. to comply with	d. breaking of
5. sovereignty	e. to affect

*** 8. Выразите согласие или несогласие со следующими утверждениями.**

1. Joining the European Community was not very different from joining many other international organizations.
2. An ordinary international treaty does not impinge on the sovereignty of Parliament in the legal sense.
3. The UK government treats a breach of international law less seriously than most other governments.

9. Ответьте на вопросы.

1. What is the difference between joining the European Community and joining many other international organizations (like the United Nations, for example)?
2. Why does the UK government treat a breach of international law more seriously than most other governments in the World?
3. What is the reason for widespread discrepancy in use of the terms "European Community" and "European Union"?

Text 4

THE COURT OF JUSTICE

The **Court of Justice** has been one of the most important champions of **European integration** but has pursued this cause largely out of the public eye. While media and political attention have focused on the Commission of **the Council of Ministers** the Court has quietly gone about its business, working far away from the **political fray** in its Luxembourg **headquarters**.

Its job is to rule on interpretations of the treaties and EU laws, and to **ensure** that national and European laws and international agreements being considered by the EU **meet the terms and the spirit of the treaties.** It can **rule** on the constitutionality of all EU law, gives rulings to national courts in cases where there are questions about the meaning of EU law, and rules in disputes involving EU institutions, **member states** individuals and corporations. The Court's role has been vital to the development of the EU: without **a body of law** capable of **uniform interpretation** and application, the EU would have no authority and its decisions and policies would be **arbitrary** and largely meaningless.

Notes

the European Court of Justice – Европейский Суд (Суд Европейского сообщества)
European integration – европейская интеграция
the Council of Ministers – Совет Министров
political fray – политическая драка
headquarters – штаб-квартира
ensure – обеспечивать
meet the terms and the spirit of the treaties – отвечать условиям и духу договоров
rule – постановить
member states – государства-члены (Европейского Союза)
body of law – правовая организация
uniform interpretation – единообразное толкование
arbitrary – произвольный

Упражнения

***10. Найдите в тексте английские эквиваленты следующих слов и словосочетаний.**

1. европейская интеграция; 2. условия и дух договоров; 3. постановления суда; 4. толкование законов; 5. важное, необходимое для развития чего-л.

***11. Составьте словосочетания, используя слова из обеих колонок.**

1. champions of	a. decisions
2. integrations of	b. development
3. arbitrary	c. integration
4. a body of	d. treaties
5. member	e. law
6. vital to	f. states

12. Ответьте на вопросы.

1. How can you prove that the Court of Justice has been one of the most important champions of European integration?
2. Why do you think Luxembourg is the ideal place for the headquarters of the Court of Justice?
3. How can you sum up the main aims and tasks of the European Court of Justice?

Text 5

THE EUROPEAN COURT OF HUMAN RIGHTS

Article 38 **provides** that the European Court of Human Rights shall consist of a number of judges equal to that of the Members of the Council of Europe. No two judges may be nationals of the same state.

Under Article 39 the members of the court shall be **elected** by the Consultative Assembly by a **majority of the votes** cast from a list of persons nominated by the members of **the Council of Europe**. The candidates shall be of high moral character and must either possess the qualifications required for appointment to **high judicial office** or be jurists of recognized competence. Members of the court are elected for nine years.

Article 43 provides that for the consideration of each case brought before it the court shall consist of a **chamber** composed of seven judges. There shall sit as an **ex officio** member of the chamber, the judge who is a national of any state party concerned, or, if there is none, a person of its choice who shall sit in the capacity of judge.

Only the High Contracting Parties and the Commission have the right to bring a case before the court. An individual applicant cannot initiate proceedings or plead his case.

Under Article 45 the jurisdiction of the court shall **extend to** all cases concerning the interpretation and application of the present convention which the High Contracting Parties or the Commission shall refer to it, providing that the High Contracting Parties have declared that they recognize as **compulsory** the jurisdiction of the court in all matters concerning the interpretation and application of the present convention.

Notes

provide – обусловливать
elect – выбирать
majority of the votes – большинство голосов
the Council of Europe – Европейский Совет
high judicial office – высокая судебная инстанция
chamber – палата
ex officio – по должности
extend to – распространяться на
compulsory – обязательный

Упражнения

***13. Найдите в тексте английские эквиваленты следующих словосочетаний.**

1. юристы с признанным уровнем профессионализма; 2. высоконравственный (кандидат); 3. рассмотрение каждого дела; 4. высокие договаривающиеся стороны; 5. представлять дело в суде.

***14. Составьте словосочетания, используя слова из обеих колонок.**

1. a majority of	a. competence
2. recognized	b. proceedings
3. state	c. one's case
4. to initiate	d. party
5. to plead	e. the votes

***15. Выразите согласие или несогласие со следующими утверждениями.**

1. Any number of judges may be nationals of the same State.
2. Members of the European Court of Human Rights are elected for 7 years.
3. The court shall consist of a chamber composed of 7 judges.
4. Anyone can initiate proceedings or plead his case.
5. It is not necessary for the Contracting Parties to recognize as compulsory the jurisdiction of the court in all matters concerning the interpretation and application of the present convention.

Text 6

THE HUMAN RIGHTS DEFENSE

The notion of individual accountability for **crimes against humanity** can be fully grasped only in connection with the international **human rights** doctrine and other recent developments in the structure and process of international law. Particularly relevant, in this respect, is the notion of **obligations** which are not owed to any particular state but to the international community. This, in turn, entails that every state has a **legal interest** in their fulfillment. The pre-eminence of these obligations over others, in light of their content, stipulates a hierarchy of values in the international legal system in which norms concerning the protection of fundamental human rights certainly enjoy the **highest-ranking status**. The persuasive **force of the argument** is reinforced by the emergence of a set of norms from which no **derogation** is ever admitted under international law. The importance of certain rules and principles to the international community is such that any **unilateral action** or international agreement which **violates** them is absolutely prohibited. Elementary logic supports this conclusion, as the law cannot **tolerate acts** which **run against** its very foundation. There is hardly any doubt that genocide, apartheid, **torture** and, when committed on a large scale or as a matter of state policy, murder, **arbitrary detention** and enforced disappearance of individuals can be legitimately included in the list.

All the above mentioned notions prove the existence of an international public order based on a **commonality** of **core values** and interests which are regarded as fundamental by the international community as a whole.

Notes

crime against humanity – преступление против человечества
human rights – права человека
obligations – обязательства
legal interest – юридический интерес
highest-ranking status – самый высокий статус
force of the argument – сила довода, аргумента
derogation – умаление
unilateral action – одностороннее действие
violate – нарушать
tolerate acts – допускать действия
run against – действовать против
torture – пытка
arbitrary detention – произвольное, незаконное содержание под стражей

commonality – общность
core values – основные ценности

Упражнения

***16. Найдите в тексте английские эквиваленты данных слов и словосочетаний.**

1. может быть полностью понято; 2. особо важным в этом отношении является; 3. в свою очередь ведет за собой (связано с); 4. превосходство чего-либо над чем-л.; 5. усиленный чем-либо; 6. широкомасштабно; 7. признавать что-л. в качестве осново-полагающих моментов

***17. Соотнесите слова и словосочетания с их синонимами.**

1. can be understood	a. to enjoy the status
2. important	b. the emergence of
3. to possess the status	c. the law cannot tolerate acts
4. the appearance of	d. relevant
5. the law cannot stand acts	e. can be grasped
6. basic	f. elementary

18. Ответьте на вопросы.

1. What is necessary to understand the notion of individual accountability for crimes against humanity?
2. What norms enjoy the highest – ranking status in the hierarchy of values in the international legal system?
3. What proves the existence of an international public order based on a commonality of fundamental core values and interests?

Text 7

THE IMMUNITY OF HEADS OF STATE

The immunity of **heads of state** in international law is a complex topic. The early view that monarchs enjoy an absolute **immunity** has given way to other considerations. After the formation of modern states the position of head of state has radically changed and nowadays it may remarkably vary depending on the constitutional organization of the state. The immunity of foreign heads of state may become **relevant**, in many different ways before foreign municipal courts. It may concern current heads of state visiting officially another country or **leading an official mission**, or regardless of their physical presence in the forum state, it may arise in connection with acts carried out by them in their own state. Moreover, the **issue of immunity** may vary depending on the nature of their activities and on the type of proceedings in which they **are involved**. As rightly noted, this is

an area of the law which is in many respects still unsettled, and on which limited state practice **casts an uneven light**.

Even more troubling is the question of what, if any, immunity protects former heads of state, once they **lose their office**. Are they still **entitled to** claim immunity? If so, on what basis and for what acts should they be held immune? Should one distinguish between private acts and official acts performed in the **exercise of their functions**? Is the **alleged** criminal character of the acts committed while they were in post relevant for the purpose of immunity? Can one distinguish between offences of a different gravity? Last, would any such immunity apply to the conduct of heads of state in particular or would it rather be applicable to any foreign state's official regardless of his rank? All these issues underlined the Pinochet case. For the first time, a former head of state faced criminal proceedings in a foreign municipal court on charges concerning crimes of international law allegedly committed while he was serving as head of state of Chile.

Notes

heads of state – главы государств
immunity – неприкосновенность
relevant – актуальный, важный
lead an official mission – выполнять служебное задание, быть в служебной командировке
issue of immunity – вопрос о неприкосновенности
be involved (in) – быть вовлеченным (в)
cast an uneven light on – *зд.* нет ясности по какому-л. вопросу
lose one's office – уходить со службы (нередко в связи с окончанием срока полномочий)
be entitled to – иметь право на
exercise one's function – выполнять обязанности
alleged – мнимый

Упражнения

***19. Соотнесите слова из левой колонки с их синонимами в правой.**

1. to differ	a. to lose one's office
2. important	b. to be entitled to do
3. to have a right to do smth	c. to claim
4. to perform	d. to exercise
5. to demand	e. relevant
6. to retire	f. to vary

***20. Выразите согласие или несогласие со следующими утверждениями.**

1. After the formation of modern states the position of head of state has not radically changed.
2. The immunity of foreign heads of state may concern current heads of state visiting officially another country.
3. In the Pinochet case a former head of state for the first time faced criminal proceedings in a foreign municipal court.

21. Ответьте на вопросы.

1. Why do you think the Pinochet case is so interesting from the point of view of international law?
2. What was the ruling of the court in this case?
3. What do you think about the immunity for Former Heads of State?

Text 8

THE EUROPEAN PARLIAMENT

The EC Parliament is not to **be equated with** the Westminster model. It cannot **legislate** in its own right, it does not possess any form of parliamentary sovereignty, and it **exercises** limited but growing **supervisory powers**. In particular the Parliament:

1. advises the Council of Ministers on Commission proposals;
2. with the Council of Ministers, determines the budget for the Community;
3. exerts some political control over the Council and Commission;
4. by debate can attract publicity to issues which then have to be considered by the Commission or the Council.

The European Parliament has 518 members who represent the citizens of the Community. Members **are directly elected** and **serve** for a period of five years. The **citizens** of France, Germany, Italy and the United Kingdom are each represented by 81 members; Spain by 60 members; the Netherlands by 25 members; Belgium, Greece and Portugal each by 24 members; Denmark by 16, Ireland by 15 and Luxembourg by 6 members. The **composition** of Parliament makes it a fully integrated Community institution. The members do not sit in Parliament in national groups but in political party groups. The six main political party groups at present are the Communists, Socialists, European People's Party, European Progressive Democrats, European Democrats and the Liberal and Democratic Group.

The European Parliament meets **on average** once a month, for sessions which last up to a week. It has 18 **standing committees** which discuss proposals made by the Commission. The committees present reports on these proposals for debate by the full Parliament. Decisions made by Parliament are influential on the Council of Ministers but are not binding. However, direct

elections have given Parliament greater **political authority** and new prestige both inside and outside the Community. The Parliament has the right to question members of the Commission and Council and is therefore able **to monitor** the work of these institutions. It has the power **to dismiss** the Commission by a two-thirds majority vote, and **to reject** the Council's proposals for the Community budget.

Notes

be equated with – приравнивать к
legislate – издавать законы
exercise powers – осуществлять, использовать полномочия
supervisory – наблюдательный
be directly elected – избираться напрямую
serve – служить
citizen – гражданин
composition – состав
on average – в среднем
standing committees – постоянные комитеты
political authority – политическая власть
monitor – направлять, следить за чем-л.
dismiss – распустить (комиссию)
reject – отклонять

Упражнения

***22. Соотнесите слова из левой колонки с их синонимами в правой.**

1. standing	a. to legislate
2. to serve	b. binding
3. to make laws	c. to monitor
4. compulsory	d. to work
5. to keep an eye on	e. permanent

***23. Выразите свое согласие или несогласие со следующими утверждениями.**

1. The EC Parliament is to be equated with the Westminster model.
2. Decisions made by the EC Parliament are binding for the Council of ministers.
3. The EC Parliament has the power to reject the Council's proposals for the Community budget.

24. Ответьте на вопросы.

1. What is the difference between the European Parliament and the Westminster model?
2. What are the functions of the European Parliament?

3. What is the structure of the European Parliament?
4. What rights does it have?

Text 9

STATE JURISDICTION

International law has traditionally **recognized the right** of states to **exercise jurisdiction** on a number of grounds. The most common **grounds for** the exercise of jurisdiction are the territorial principle, the nationality principle, the protective or security principle and the principle of **universality**. According to this final generally accepted traditional ground of jurisdiction a state has jurisdiction to try and punish private individuals for certain offences recognized by the international community as being of universal concern. Although the exact scope of this principle is as yet undefined, offences which fall within its scope include **hijacking**, **piracy**, genocide and war crimes.

Trafficking in narcotics has not yet been defined as an international crime. Unlike hijacking, where a series of multilateral treaties allow a number of states to try individuals for that offence, **drug smuggling** has been the subject mainly of bilateral agreements relating to **police cooperation** and enforcement. At the same time there is little doubt that there does not exist sufficient state practice to declare drug smuggling an international crime in customary law.

Notes

recognize the right – признавать право
exercise jurisdiction – осуществлять юрисдикцию
grounds for – основания для
universality – универсальность
hijacking – угон самолета
piracy – пиратство
trafficking in narcotics – перевозка, доставка наркотиков
drug smuggling – контрабанда наркотиков
police cooperation – сотрудничество полиций (разных стран)

Упражнения

***25. Соотнесите слова из левой колонки с их английскими эквивалентами в правой.**

1. признать право государств на...	a. perpetration
2. международное мошенничество	b. commonplace
3. угон самолета	c. drug trafficking
4. контрабанда наркотиков	d. hijacking
5. двусторонние соглашения	e. to recognize the right of states to...
6. обычный	

7. совершание преступления	f. bilateral agreement
8. торговля наркотиками	g. international fraud
	h. drug smuggling

***26. Выразите согласие или несогласие со следующими утверждениями.**

1. International law has not traditionally recognized the right of states to exercise jurisdiction.
2. A state has jurisdiction to try and punish private individuals for certain offenses recognized by the international community as being of universal concern.
3. Trafficking in narcotics has already been defined as an international crime.

27. Ответьте на вопросы.

1. What are the five traditional grounds for jurisdiction?
2. What problems has international drug-trafficking posed for the law relating to jurisdiction?
3. What ways to cope with these problems do you see?

GLOSSARY

alleged – мнимый
applicable – применительный
arbitrary – произвольный
arbitrary detention – произвольное, незаконное содержание под стражей
ascertain – выяснять, устанавливать
authorise – давать разрешение, уполномочивать
authoritative rules and principles – авторитетные права и принципы
binding legal rules – обязательные юридические правила
body of law – правовая организация
body of rules – *зд.* свод правил
breach of – нарушение
bring proceedings – подать в суд
cast an uneven light on – *зд.* нет ясности по какому-л. вопросу
chamber – палата
citizen – гражданин
co-existing – сосуществующий
cogency – убедительность
common foreign policy – общая внешняя политика
commonality – общность
community – общность, общество
comply with – подчиняться чему-л.

composition – состав
compulsory – обязательный
constitute – составлять
constitutional processes – конституционные процедуры
content of the law – содержание права
contesting states – конкурирующие, спорящие государства
convention – конвенция
core values – основные ценности
Council of Europe – Европейский Совет
Council of Ministers – Совет Министров
crime against humanity – преступление против человечества
deem – считать что-л. необходимым
derive – черпать
derogation – умаление
discrepancy – несоответствие
dismiss – распустить (комиссию)
drug smuggling – контрабанда наркотиков
elect – выбирать
be directly elected – избираться напрямую
emanate – происходить
ensure – обеспечивать
European Community – Европейское Сообщество
European Court of Justice – Европейский Суд (Суд Европейского сообщества)
European Court – Европейский Суд
European integration – европейская интеграция
ex officio – по должности
exercise jurisdiction – осуществлять юрисдикцию
exercise one's function – выполнять обязанности
exercise powers – осуществлять, использовать полномочия
extend to – распространяться на
force of the argument – сила довода, аргумента
govern – управлять, руководить
grounds for – основания для
headquarters – штаб-квартира
heads of state – главы государств
high judicial office – высокая судебная инстанция
highest-ranking status – самый высокий статус
hijacking – угон самолета
human rights – права человека
immunity – неприкосновенность

impinge on the sovereignty of – посягать на суверенитет
International law – международное право
issue of immunity – вопрос о неприкосновенности
judicial decisions – судебные решения
lead an official mission – выполнять служебное задание, быть в служебной командировке
legal interest – юридический интерес
legal opinion – юридическое решение
legislate – издавать законы
lose one's office – уходить со службы, нередко в связи с окончанием срока полномочий
majority of the votes – большинство голосов
meet the terms and the spirit of the treaties – отвечать условиям и духу договоров
member states – государства-члены (Европейского Союза)
monetary union – единая денежная система
monitor – направлять, следить за чем-л.
notable – значительный, важный
obligations – обязательства
on average – в среднем
piracy – пиратство
police cooperation – сотрудничество полиций (разных стран)
political authority – политическая власть
political fray – политическая драка
provide – обусловливать
recognize – признавать
recognize the right – признавать право
refer to – ссылаться на что-л.
reject – отклонять
relevant – актуальный, важный
retard – замедлять
rule – постановить
run against – действовать против
serve – служить
sovereign states – суверенные государства
standing committees – постоянные комитеты
subsidiary means – вспомогательные средства
substantiate – обосновать
supervisory – наблюдательный
tolerate acts – допускать действия
torture – пытка

trafficking in narcotics – торговля наркотиками
uniform interpretation – единообразное толкование
unilateral action – одностороннее действие
universality – универсальность
violate – нарушать

Ключи

1. 1f; 2c; 3d; 4a; 5b; 6e

2. 1. a means of achieving common aims; 2. international community; 3. the signing of the treaty; 4. to acknowledge restrictions; 5. in favour of the territorial autonomy

4. A. 1. the sources of international law; 2. authoritative rules; 3. the content of the law; 4. to deduce rules; 5. consistency; 6. interaction with each other.

B. 1. applicable; 2. dispute; 3. to recognize; 4. subsidiary means

5. 1c; 2e; 3b; 4f; 5a; 6d

7. 1e; 2d;3b;4a; 5c

8. 1. false; 2. true; 3. false

10. 1. European integration; 2. the terms and the spirit of the treaties; 3. rulings of the court; 4. interpretation of law; 5. vital

11. 1c; 2d; 3a; 4e; 5f; 6b

13. 1. jurists of recognized competence; 2. candidates of high moral character; 3. the consideration of each case; 4.the High Contracting Parties; 5.to bring a case before the court

14. 1e; 2a; 3d; 4b; 5c

15. 1. false; 2. false; 3. true; 4. false; 5. false

16. 1. can be fully grasped; 2. particularly relevant, in this respect; 3. (this) in turn entails; 4. the pre-eminence of ... over; 5. reinforced by; 6. on a large scale; 7. to regard smth as fundamental

17. 1e; 2d; 3a; 4b; 5c; 6f

19. 1f; 2e; 3b; 4d; 5c; 6a

20. 1 – false; 2 – true; 3 – true

22. 1e; 2d; 3a; 4b; 5c

23. 1 – false; 2 – false; 3 – true

25. 1e; 2g; 3d; 4h; 5f; 6b; 8c; 7a

26. 1 – false; 2 – true; 3 – false

UNIT TEN
General Principles of Trade Law

Text 1

INTERNATIONAL TRADE ORGANIZATIONS, CONFERENCES AND TREATIES

A large number of organizations exist that affect the multinational markets for goods, services, and investments.

GATT 1994 and WTO

The General Agreement on Tariffs and Trade 1994 (GATT 1994) is a **multilateral** treaty **subscribed to** by 125 member governments. It consists of the original 1947 GATT, numerous multilateral agreements **negotiated** since 1947, the Uruguay **Round Agreements**, and the agreement **establishing** the World Trade Organization (WTO). On January 1, 1995, the WTO **took over** responsibility of the former GATT organization. Since 1947 and the end of the World War II era, the goal of the GATT has been to **liberalize world trade** and make it **secure** for **furthering** economic growth and **human development.**

The GATT is based on the fundamental principles of (1) trade without discrimination and (2) protection through tariffs. The principle of trade without discrimination is **embodied** in its **most favored nation clause.** All member countries grant each other **equal treatment.** All member countries are equal and share the benefits of any moves toward lower trade barriers. Exceptions to this basic rule are allowed **in regard to the European Union** (EU) and **the North American Free Trade Agreement** (**NAFTA**). Special **preferences** are also granted to developing countries. The second basic principle is protection for domestic industry, which should be extended **essentially** through a tariff, not through other commercial measures. The aim of this rule is to make the **extent** of protection clear and to make competition possible.

The new WTO provides a **Dispute Settlement Body** (DSB) to **enable** member countries to **resolve** trade disputes. The DSB appoints **panels** to hear disputes concerning **allegations** of GATT agreement violations. If a GATT agreement violation is found and not **removed** by the **offending** country, trade **sanctions authorized** by a panel may **be imposed on** that country in an amount equal to the economic **injury** caused by the **violation.**

Notes

GATT – the General Agreement on Tariffs and Trade – Соглашение по таможенным тарифам и торговле

WTO – the World Trade Organization (of the United Nations) – Организация ООН по международной торговле или ВТО (Всемирная торговая организация)

multilateral – многосторонний
subscribe to – подписывать (документ)
negotiate – вести переговоры
The Uruguay Round Agreements – Уругвайский раунд
establish – учредить, основать
take over – взять на себя (ответственность, обязанности)
liberalize – делать либеральным, свободным
world trade – международная торговля
secure – безопасный; гарантированный; режимный
further – способствовать
human development – развитие гуманитарности
embody – воплощать
most favored nation – режим наибольшего благоприятствования стране
equal treatment – равное обращение с; одинаковый режим
in regard to – в отношении, относительно
EU – the European Union – Европейский Союз (ЕС)
NAFTA – the North American Free Trade Agreement – Североамериканское соглашение о свободе торговли (НАФТА)
preference – предпочтение, преференция, льгота
essentially – существенно
extent – степень
DSB – a Dispute Settlement Body – коллегия по разрешению споров
enable – позволять, способствовать
resolve – разрешать, урегулировать
panel – комиссия
allegation – заявление, утверждение
remove – устранить
offending – нарушающий
authorize – разрешать, санкционировать, уполномочивать
impose sanctions – вводить санкции
injury – вред, ущерб
violation – нарушение

Упражнения

***1. Соотнесите слова из левой колонки с их английскими эквивалентами в правой.**

1. многосторонний договор	a. lower trade barriers
	b. a GATT agreement violation

2. способствовать росту экономики и развитию гуманитарности
3. пункт в договоре о режиме наибольшего благоприятствования какой-либо стране
4. предоставлять друг другу одинаковый режим
5. более низкие торговые барьеры
6. предоставлять льготы развивающимся странам
7. урегулировать торговые споры
8. назначать комиссии для выслушивания споров
9. нарушение Соглашения по таможенным тарифам и торговле
10. разрешать введение торговых санкций

c. to authorize trade sanctions
d. to further economic growth and human development
e. to resolve trade disputes
f. to appoint panels to hear disputes
g. a multilateral treaty
h. to grant each other equal treatment
i. most favored nation clause
j. to grant preferences to developing countries

***2. Заполните пропуски данными словами.**

violation, domestic, imposed, preference, subscribe, offending

1. Please.....your name to the document.
2. Some employers give.....to non-smokers.
3. The military exercises are a clear.....of the treaty.
4. That company pulled the.....advertisements from the country's airwaves and publications.
5. Many countries.....economic sanctions on South Africa during apartheid.
6. The airline serves mainly.....routes.

***3. Соотнесите слова в левой колонке с их определениями в правой.**

1. market
2. multilateral
3. treaty
4. commercial
5. to authorize

a. involving several different countries, companies, etc.
b. relating to business and the buying and selling of goods and services
c. to give official or legal permission for something

6. to resolve — d. to settle; to find a satisfactory way of dealing with a problem or difficulty
e. the total amount of trade in a particular kind of goods
f. a formal agreement between two or more countries or governments, or the document of this agreement

4. Ответьте на вопросы.

1. How many countries are subscribed to the General Agreement on Tariffs and Trade 1994?
2. What does the GATT 1994 consist of?
3. What fundamental principles is the GATT based on?
4. Are all member countries equal?
5. Are any exceptions to the basic rule of equal treatment allowed? Give an example.
6. What is the aim of the second principle?
7. In what case may trade sanctions be imposed on the offending country?

***5. Выразите согласие или несогласие с данными утверждениями.**

1. All member countries are equal and share benefits of any moves toward lower barriers.
2. Exceptions to this basic rule are not allowed.
3. No preferences are granted to developing countries.
4. The new WTO provides a Dispute Settlement Body to enable member countries to resolve trade disputes.
5. If a GATT agreement violation is found and not removed by the offending country, trade sanctions may be imposed on that country in a double amount of the economic injury caused by the violation.

Text 2

EU

The European Economic Community (EEC) was established in 1958 by the **Treaty of Rome** in order **to remove** trade and economic **barriers** between member countries and **to unify** their economic policies. It changed its name and became the **European Union (EU)** after the **Treaty of Maastricht** was **ratified** on November 1, 1993. The Treaty of Rome contained the governing principles of this regional trading group. The treaty was signed by the **original** six nations of Belgium, France, West Germany, Italy, Luxembourg, and the Netherlands. Membership expanded by **the entry** of Denmark, Ireland, and Great Britain in 1973; Greece in 1981; Spain and Portugal in 1986; and Austria, Sweden, and Finland in 1995.

Four main institutions make up the formal structure of the EU. The first, **the European Council**, consists of the heads of state of the member

countries. The council sets broad policy **guidelines** for the EU. The second, **the European Commission**, **implements** decisions of the council and **initiates actions against** individuals, companies, or member states that violate EU law. The third, the **European Parliament**, has an **advisory legislative** role with limited veto powers. The fourth, the **European Court of Justice** (**ECJ**), is the **judicial** arm of the EU. The courts of member states may **refer** cases involving questions on the EU treaty to the ECJ.

The Single European Act eliminated internal barriers to the free movement of goods, persons, services, and capital between EU countries. The Treaty on European Union, signed in Maastricht, Netherlands (the Maastricht Treaty), **amended** the Treaty of Rome with a focus on monetary and political union. It set goals for the EU of (1) **single** monetary and **fiscal** policies, (2) common foreign and security policies, and (3) cooperation in justice and home affairs.

Notes

EU – the European Union – Европейский Союз (ЕС)
EEC – the European Economic Community – Европейское экономическое сообщество (ЕЭС)
the Treaty of Rome – Римский договор
remove barriers – устранить барьеры
unify – объединять; унифицировать
the Treaty of Maastricht – Маастрихтский договор
ratify – ратифицировать, одобрять, утверждать
original – первый, первоначальный, подлинный
entry – вступление, присоединение
the European Concil – Европейский совет
guidelines – руководство
the European Commission – Европейская комиссия
implement – осуществлять, выполнять
initiate actions against – возбуждать дело против; начинать процесс против
the European Parliament – Европейский парламент
advisory – консультативный, совещательный
legislative – законодательный
ECJ – the European Court of Justice – Европейский суд
judicial – судебный
refer to – относить к, передавать в
the Single European Act – единый европейский закон
amend – вносить поправки, изменения
single – единый
fiscal – финансовый

Упражнения

***6. Соотнесите слова из левой колонки с их английскими эквивалентами в правой.**

1. снять торговые и экономические барьеры	a. to set a goal
2. ратифицировать договор	b. to amend a treaty
3. подписать договор	c. to violate EU law
4. главы государств-участников	d. limited veto powers
5. нарушить законодательство ЕС	e. to remove trade and economic sanctions
6. консультативно-законодательная роль	f. cooperation in justice and home affairs
7. ограниченное право вето	g. heads of state of the member countries
8. внести поправки в договор	h. to sign a treaty
9. установить цель	i. to ratify a treaty
10. сотрудничество в области правосудия и внутренних делах	j. an advisory legislative role

***7. Заполните пропуски данными словами.**

unified, fiscal, heads of state, entry, established, judicial

1. The university was.....in 1960.
2. The.....branch of a government decides whether laws are good and whether people have disobeyed these laws.
3. Strong support for the Patriotic War.....the nation.
4. Thirty-five.....held a summit last year.
5. The administration needs to come up with a sound.....policy.
6. Several Eastern European countries gained.....to the European Union.

***8. Укажите, в каком из приведенных значений данное слово употребляется в тексте.**

1. trade
   a. the activity of buying, selling, or exchanging goods within a country or between countries.
   b. a particular job especially one needing special skill with your hands
   c. an exchange of something you have for something someone else has

2. service	a. help that you give to someone b. a formal religious ceremony, for example in church c. the work you do for a person or organization
3. court	a. the royal family and the people who work for them b. the judges, lawyers, and jury who officially decide whether someone is guilty of a crime and what the punishment should be. c. an area that has been specially made for playing games such as tennis, basketball, etc.
4. case	a. an example of a disease or illness or the person suffering this disease or illness b. a question or problem that will be dealt with by a court of law c. a large box or container in which things can be stored or moved
5. power	a. the legal right or authority to do something b. energy such as electricity that can be used to make a machine, car, etc. c. a natural or special ability to do something.

9. Ответьте на вопросы.

1. Name the original six EEC member countries.
2. By the entry of what countries did the membership expand?
3. Name four main institutions that make up the formal structure of the EU. What are their functions?
4. Are there any advantages that EU countries enjoy? Give your grounds.
5. What goals for the EU did the Maastricht Treaty set of?

10. Расскажите, что вы знаете о Европейском Союзе, употребив юридическую лексику.

to establish; to remove trade and economic barriers; member countries; to unify; to ratify; a regional trading group; to sign; entry; to implement decisions; policy guidelines; to violate EU law; to have an advisory legislative role; limited veto powers; the judicial aim; courts; to eliminate internal barriers; to amend; monetary and political union; to set goals of something for somebody

Text 3

NAFTA

The North American Free Trade Agreement (**NAFTA**) is an agreement among Mexico, Canada, and the United States, effective January 1, 1994. It

included Mexico in the **arrangements** previously initiated under **the U.S. – Canada Free Trade Agreement** of 1989. NAFTA **eliminates** all tariffs among the three countries. **Side** agreements exist to **prevent** the exploitation of Mexico's lower environmental and labor standards. Products are **qualified** for NAFTA tariff preferences only if they **originate** in one or more of the three member countries. NAFTA does not create a common **labor market.**

IMF-World Bank

The International Monetary Fund (IMF) was created after World War II by a group of nations meeting in Bretton Woods, New Hampshire. The Articles of Agreement of the IMF **state** that the purpose is "to **facilitate** the expansion and balanced growth of international trade" and to "**shorten** the **duration** and **lessen** the **disequilibrium** in the international **balance of payments** of members." The IMF administers a complex **lending** system. A country can **borrow** money from other IMF members or from the IMF by means of **special drawing rights (SDRs)** sufficient to permit that country to maintain the **stability** of its currency's relationship to other world currencies. The Bretton Woods conference also set up the **International Bank for Reconstruction and Development (World Bank)** to facilitate the lending of money by **capital surplus countries** – such as the United States – to countries needing economic help and wanting foreign investments after World War II.

OPEC

The Organisation of Petroleum Exporting Countries (OPEC) is a producer cartel or **combination.** One of its main goals was to **raise the taxes** and **royalties** earned from crude oil production. Another major goal was to take control over production and **exploration** from the major oil companies.

Notes

arrangement – договоренность, соглашение; устройство
the US – Canada Free Trade Agreement – Соглашение о свободе торговли между США и Канадой
eliminate – устранять, уничтожать, упразднить
side – *зд.* дополнительный
prevent – предотвратить, помешать
qualified – правомочный, отвечающий требованиям
originate – возникать, происходить
labor market – рынок рабочей силы
IMF – the International Monetary Fund – Международный валютный фонд (МВФ)
state – заявлять, сообщать, утверждать, констатировать
facilitate – способствовать
shorten – сократить
duration – длительность, продолжительность

lessen – уменьшить
disequilibrium – неустойчивость, потеря равновесия
balance of payments – платежный баланс
lend – давать в долг, ссужать
borrow – брать в долг, заимствовать
special drawing rights – особые права заимствования
stability – стабильность, устойчивость
International Bank for Reconstruction and Development (World Bank) – Всемирный банк реконструкции и развития
capital surplus countries – страны, имеющие избыток капитала
OPEC – the Organization of Petroleum Exporting Countries – Организация стран-экспортеров нефти – ОПЕК
cartel – картель
combination – союз; монополистическое объединение (картель, синдикат)
raise taxes – собирать налоги
royalty – лицензионный платеж, арендная плата за право разработки надр
exploration – исследование, изучение

Упражнения

***11. Соотнесите словосочетания из левой колонки с их английскими эквивалентами в правой.**

1. вступивший в силу 1 января 1994 г.	a. capital surplus countries
2. по соглашению	b. side agreements
3. отменить все тарифы	c. to raise the taxes and royalties
4. дополнительные соглашения	d. the disequilibrium in the international balance of payment
5. помешать эксплуатации	e. to facilitate the expansion
6. учредить фонд	f. to eliminate all tariffs
7. способствовать расширению	g. to prevent exploitation
8. нестабильность в международном платежном балансе	h. effective January 1, 1994
9. страны, имеющие избыток капитала	i. under the agreement
10. собирать налоги и арендную плату	j. to create a fund

***12. Заполните пропуски данными словами.**

ensure, capital, facilitate, lent, qualified, standards

1. Air quality.....vary from state to state.
2. The purchaser must be legally.....to own a gun.
3. All the necessary steps were taken to.....their safety.
4. The recycling industry is making huge.....investments in equipment.
5. Dividing students into small groups usually helps.....discussion.
6. U.S. banks.....billions of dollars to developing countries in the 1970s.

***13. Укажите, в каком из приведенных значений данное слово употребляется в тексте.**

1. agreement	a. a situation in which people have the same opinion as each other b. an official document that people sign to show they accept something
2. common	a. happening often and to many people, or in many places b. shared by several people or groups
3. to borrow	a. to use something that belongs to someone else and give it back to them later b. to take or copy someone's ideas, words, etc. and use them in your own work, language etc.
4. fund	a. an organization that's responsible for collecting and spending money for a particular purpose b. an amount of money that is collected and kept for a particular purpose
5. to qualify	a. to have the right to have or do something, or give someone the right to have or do something
6. to eliminate	a. to kill someone in order to prevent them from causing trouble b. to get rid of something completely

14. Ответьте на вопросы.

1. What countries are included in the NAFTA?
2. Why was the NAFTA set up?
3. When was the International Monetary Fund created?
4. What bank was set up at the Bretton Woods conference?
5. What is one of the main goals of the Organization of Petroleum Exporting Countries?

***15. Выразите согласие или несогласие с данными утверждениями.**

1. Side agreements exist to prevent the exploitation of Mexico's lower environmental and labor standards.
2. Products are qualified for NAFTA tariff preferences, they may originate in any country.
3. NAFTA creates a common labor market.
4. A member country can only borrow money from IMF by means of special drawing rights.
5. One of the OPEC's main goals was to raise the taxes and royalties earned from crude oil production.

GLOSSARY

access – доступ
administer – осуществлять, управлять
adopt – принимать, утверждать
advisory – консультативный, совещательный
agreement – соглашение, договор
allegation – заявление, утверждение
allocate – ассигновать, размещать, распределять
amend – вносить поправки, изменения
antidumping – антидемпинговый; направленный против вывоза товаров по бросовым ценам
antitrust – антитрестовский, антимонопольный
antitrust laws – антитрестовское законодательство
approve – одобрять, утверждать
arbitration – арбитраж
arbitrator – судья, арбитр
arrangement – договоренность, соглашение, устройство
article – статья, пункт, раздел, параграф (в договоре)
authorize – разрешать, санкционировать
balance of payment – платежный баланс
bargaining – переговоры о заключении договора;сделки
benefits – прибыли, выгода
bid – принимать участие в торгах
binding – обязательный, обязывающий
borrow – брать в долг; получать заем; брать взаймы
buyer – покупатель
capital surplus countries – страны, имеющие избыток капитала
cartel – картель; объединение
charge – налог; сбор; лицо, находящееся на попечении, подопечный
clause – статья; пункт; условие (договора)

combination – союз; монополистическое объединение
commission – комиссионные; комиссионное вознаграждение
compete – конкурировать
comprehensive – всесторонний, комплексный
conduct trade – вести торговлю
consideration – встречное удовлетворение
constitute – составлять; быть частью
contain – содержать, включать
corporate – корпоративный
currency – валюта
custom – обычай
dealings – сделки; деловые отношения
direction sale – прямая продажа
disadvantage – невыгодное положение
disequilibrium – неустойчивость, потеря равновесия
distributor – сбытчик; распределительная организация
distributorship – оптовое распределение
do business – вести дело
domain – область, сфера; территория
draft – тратта; переводной вексель
draw – выписывать
duty – пошлина; налог; сбор
become effective – вступать в силу
eliminate – устранять, уничтожать
enforcement – принудительное применение закона
ensure – гарантировать, обеспечивать
enter into treaty – заключить договор
entity – самостоятельное образование;
самостоятельная организация
entry – вступление, присоединение; проникновение (фирмы на рынок)
environment – условия; среда; обстановка
equal treatment равное обращение; одинаковый режим
establish – учреждать, основывать
expertise – деловой опыт; экспертиза
export sale – экспортная продажа
evasion – уклонение, обход
fair – честный
fiscal – финансовый, налоговый
franchising – франчайзинг; выдача компанией лицензии на производство или продажу товара под ее маркой

furnish – снабжать, предоставлять
grant permission – выдавать разрешение
grant privilegies – предоставлять льготы
guarantee – гарантировать, обеспечивать
guidelines – руководство
have qualification – отвечать требованиям; иметь квалификацию
head of state – глава государства
implement – осуществлять, выполнять
imports – импорт; ввозимые товары
impose – вводить (*санкции*)
income – доход
incorporate – инкорпоративный, включенный
initiate – положить начало, приступать, начинать
injury – вред, ущерб
insulate – изолировать, отделить, разделить
introduce – вводить
invoice – счет-фактура
issuer – эминант; трассант; чекодатель
joint venture – совместное предприятие
judicial – судебный, судейский
know-how – ноу-хау; навыки; приемы
labor market – рынок рабочей силы
law – закон, право
lawmaker – законодатель
legislative – законодательный
lend – давать в долг; давать взаймы
a letter of credit – аккредитив
liability – обязанность; ответственность
licensing – лицензирование
limited – ограниченный
litigation – тяжба; судебный процесс
make sale – торговать, вести торговлю
make the law – создавать законы
manufacturer – производитель
merchant – коммерсант, торговец
most favored nation – режим наибольшего благоприятствования (стране)
multilateral – многосторонний
negotiate – вести переговоры
nondiscriminatory – беспристрастный; неотличительный, недискриминационный

offending – нарушающий
own – владеть; собственный
ownership – собственность; право собственности
panel – комиссия
patent – патент; привилегия
parent – основная (организация)
party – сторона (в деле, договоре)
police – поддерживать, охранять (порядок)
power – полномочие, правомочие
present – представлять, быть представителем
preference – предпочтение, преференция, льгота
prime objective – первоочередная задача, цель
principal – принципал; юридическое или физическое лицо, действующее за свой счет; доверитель
provision – положение (в документе), условие; норма (права)
qualified – правомочный; отвечающий требованиям
quota – квота; доля, часть
ratify – ратифицировать, одобрять, утверждать
raise taxes – собирать налоги
redistribution – перераспределение, передача
relief – освобождение (от уплаты, ответственности)
remove barriers – устранять барьеры
represent – представлять, быть представителем
requirement – требование
restrictive – ограничительный, сдерживающий
review – пересмотр (дела)
royalty – лицензионный платеж; роялти; арендная плата за право разработки недр
secrecy law – право на неподотчетность закона органам судебной власти
secure – безопасный, гарантированный, режимный
securities – ценные бумаги
seller – продавец
share – разделять, пользоваться вместе
side – *зд.* дополнительный
special drawing rights – особые права заимствования
standard – норма; стандарт
state – заявлять, утверждать, сообщать
subject to – подлежащий, подверженный
subsidiary – дочерняя компания
subscribe to – подписывать (документ)

take over – взять на себя (ответственность, обязанность)
technical – формальный; технико-юридический; специальный
title (to) – право собственности (на)
trade – торговля
trade law – торговое право
trademark – торговая марка, торговый знак
transaction – операция, сделка; *ам.* урегулирование спора путем соглашения сторон или компромисса; ведение деловых операций
transfer – передача в собственность; переход (права); уступка
treaty – договор
trust – трест; доверительная собственность
uniform – единообразный (о законе)
unify – объединить, унифицировать
unilateral – односторонний
utilize – использовать, утилизировать
variation – разновидность, вариант
venture – рискованное предприятие
violation – нарушение
violate – нарушать
whereby – в силу чего; посредством чего (в документах)
world trade = international trade – международная торговля

Ключи

1. 1g; 2d; 3i; 4h; 5a; 6j; 7e; 8f; 9b; 10c

2. 1 – subscribe; 2 – preference; 3 – violation; 4 – offending; 5 – imposed; 6 – domestic

3. 1e; 2a; 3f; 4b; 5c; 6d

5. 1 – true; 2 – false; 3 – false; 4 – true; 5 – false

6. 1e; 2i; 3h; 4g; 5c; 6j; 7d; 8b; 9a; 10f

7. 1 – established; 2 – judicial; 3 – unified; 4 – heads of state; 5 – fiscal; 6 – entry

8. 1a; 2c; 3b; 4b; 5a

11. 1h; 2i; 3f; 4b; 5g; 6j; 7e; 8d; 9a; 10c

12. 1 – standards; 2 – qualified; 3 – ensure; 4 – capital; 5 – facilitate; 6 – lent

13. 1b; 2b; 3a; 4a; 5a; 6b

15. 1 – true; 2 – false; 3 – false; 4 – false; 5 – true

UNIT ELEVEN

Legal Problems of PR

Text 1

EXAMPLES OF LEGAL PROBLEMS

To be effective and persuasive, public relation writing must be conducted within a **legal and ethical framework.** First, you must understand legal concepts so as to know what you may do and what you must avoid. Careless work can lead to costly **litigation** for you and your employer. Second, you cannot produce and **distribute** publicity materials that are **credible and believable** if you don't have a strong ethical and professional orientation. The public **demands accountability** and won't **tolerate** mere "**puffery**".

As a public relations writer, you represent the management of your organization. What you **release** is interpreted as the voice of management. Nevertheless, you can **be held** personally **liable** for any statements that **cause defamation** or **violate** the guidelines of state **regulatory agencies. Actions are** ordinarily **brought** against the top officials of an organization, but remember that you can be named as a **co-defendant.**

To protect yourself, you should be sure that the facts you are given are accurate. It is no excuse to say, "The boss told me that was so". In **a trial,** you must be able to prove that you made a reasonable effort **to verify information.**

Among the actions for which you might be liable are the following:

- **Disseminating information** that a court or regulatory agency finds **misleading,** untrue, or **damaging**
- Participating in an illegal action
- Counseling or guiding policy **to accomplish an illegal action**
- Setting up an organization whose real identity is concealed.

Notes

within a legal and ethical framework – в юридических и этических рамках

litigation – судебный процесс, судебное дело, тяжба

distribute – распространять, распределять

credible and believable – заслуживающий доверия и *правдоподобный*

demand accountability – требовать отчета

tolerate – терпеть, выносить

puffery – чрезмерное рекламирование; дутая реклама

release – выпускать
be held liable for smth – быть ответственным за что-л.
cause defamation – явиться причиной диффамации, клеветы, дискредитации
violate – нарушать
regulatory agencies – органы государственной власти
bring action – возбудить судебное дело
co-defendant – соответчик
trial – судебный процесс
verify information – проверять информацию
disseminate information – распространять информацию
misleading – вводящий в заблуждение
damaging – наносящий ущерб
accomplish an illegal action – совершить противозаконное действие

Упражнения

***1. Укажите, в каком из приведенных значений данные слова употребляются в тексте.**

1. to release	a. to let someone go, after having kept them somewhere b. to stop holding something that you have been holding tightly or carefully c. to let news or official information be known or printed
2. a trial	a. a process of testing to find out whether something works effectively and is safe b. a legal process in which a court of law examines a case to decide whether someone is guilty of a crime c. something that is difficult to deal with, and that is worrying or annoying
3. liable	a. to be likely to do something in a particular way b .legally responsible for something c .likely to be affected by a particular kind of problem. illness , etc.
4. to tolerate	a. to accept something bad or difficult, even though you do not like it b. to allow people to do, say, or believe something without criticizing them
5. to verify	a. to find out if a fact, statement etc. is correct or true, check b. to state that something is true; confirm

***2. Соотнесите слова в левой колонке с их определениями в правой.**

1. litigation	a. writing or saying something that makes people have a bad opinion about somebody
2. puffery	b. a legal process in which a court of law examines a case to decide whether someone is guilty of a crime
3. defamation	c. the process of taking claims to a court of law, in a non-criminal case
4. trial	d. affecting someone in a bad way
5. damaging	e. the extravagant praise lavished on a product by an advertiser

***3. Заполните пропуски данными словами.**

defamation, damaging, liable, trial, disseminate

1. Executives at the company are personally.....for investors' losses.
2. He is going to sue the producers of the show for.....of character.
3. Both men are on.....for a bank robbery.
4. The statement was.....to the image of the company.
5. They.....this information via the Internet.

4. Выразите согласие или несогласие с данными утверждениями и обоснуйте свою точку зрения.

1. To be effective and persuasive, public relations writing must be conducted within a legal and ethical framework.
2. You cannot produce and distribute publicity materials that are credible and believable if you don't have a strong ethical and professional orientation.
3. You are legally and ethically responsible for the information that you produce and distribute.

5. Ответьте на вопросы.

1. In what way must public relations writing be conducted to be effective and persuasive?
2. What can careless work lead to?
3. Who are actions ordinarily brought against?
4. What should be done to protect oneself?
5. What are the actions for which one might be liable?

Text 2

LIBEL AND SLANDER

Any false statement about a person that is printed or **broadcast** and tends to bring on this person public **hatred, contempt,** or **ridicule** or to **inflict injury** on his or her business or occupation may be **libel.** If the statement is

broadcast, it may constitute either libel or **slander**. If it is made to a third person but neither printed nor broadcast, it may be slander.

Any **plaintiff** in a **libel suit** must prove four points: 1) that the statement was published to others by print or broadcast; 2) that the plaintiff was identified or is identifiable; 3) that there was actual injury in the form of **money losses, impairment of reputation, humiliation,** or **mental anguish** and suffering, and 4) that the publisher of the statement was **malicious** or **negligent**.

With public figures — people in government or politics or who are much in the news — the test is whether the publisher of the statement knew that it was false or had a **reckless disregard** for its truth. The question of who is a public figure cannot be answered **arbitrarily**, and the courts are **inconsistent** on this. It often depends on the context.

With **private figures** — people who are not officials or prominent in the news — the test is whether the publisher of the statement was negligent in checking the truth of it. In quoting someone, for instance, be sure you state exactly what was said.

These few **highlights** only hint at the **ramifications of libel law**. For your protection and for the protection of your organization, you need to dig deeper into this subject.

Remember that you needn't use a name to **commit libel**. A recognizable description serves the same purpose. If the subject remains unnamed but the public knows who is being talked about, **there may be grounds for a libel case.**

Notes

broadcast — передавать по радио или телевидению
hatred — ненависть
contempt — презрение
ridicule — осмеяние, насмешка
inflict injury — причинять вред
libel — письменная клевета
slander — клевета, злословие; устная клевета, оскорбление
plaintiff — истец
libel suit — иск о клевете
money losses — денежные убытки
impairment of reputation — нанесение ущерба репутации
humiliation — унижение
mental anguish — душевные страдания
malicious — злобный, предумышленный
negligent — небрежный, халатный
reckless disregard for — безответственное пренебрежение к чему-л., нарушение чего-л.

arbitrarily – произвольно
inconsistent – непоследовательный, противоречивый
private fugures – частные лица
highlight – основные моменты, факты
ramification of libel law – ответвление, часть закона о клевете
commit libel – оклеветать
there may be grounds for a libel case – возможны основания для начала судебного дела о клевете

Упражнения

***6. Укажите в каком из приведенных значений данные слова употребляются в тексте.**

1. contempt
   a. a feeling that someone or something is not important and deserves no respect
   b. failure to obey or show respect toward a court of law
   c. complete lack of fear toward something difficult or dangerous
2. impairment
   a. a condition in which a part of a person's mind or body is damaged or does not work well
   b. the condition of being damaged or weaker or worse than usual
3. highlight
   a. the most important, interesting, or enjoyable part of an activity, movie, sports event etc.
   b. a light bright area on a painting or photograph
4. to commit
   a. to do something wrong or illegal
   b. to say that you will definitely do something
   c. to decide to use money, time, people etc. for a particular purpose.
5. loss
   a. an occasion when you do not win a game or a competition, defeat
   b. a feeling of being sad or lonely because someone or something is not there any more
   c. money that a business, person, government etc. had before, but that it does not have anymore

***7. Соотнесите слова в левой колонке с их определениями в правой.**

1. libel
2. plaintiff
3. humiliation
4. disregard

a. to send out television or radio programs
b. an act of writing or printing untrue statements about someone so that other people are likely to have bad opinion of them

5. to broadcast c. the act of ignoring something, in a way that annoys other people because they think it is important
d. the person in a court of law who sues someone else for doing something wrong or illegal
e. a feeling of shame and great embarrassment, because you have been made to look stupid or weak

***8. Заполните пропуски данными словами.**

contempt, negligent, libel, inflict, disregard

1. He sued the newspaper for..... .
2. She did not respect him and treated him with..... .
3. Hurricanes often.....severe damage on South Florida.
4. The crew of the ship may have been.....in following safety procedures.
5. Native Americans complained that such deals showed.....for their rights..

9. Ответьте на вопросы.

1. What is the difference between libel and slander?
2. What points must any plaintiff in a libel suit prove?
3. What is the test with public figures?
4. What must you be sure of if you quote a private figure?
5. May there be grounds for a libel case if the subject remains unnamed?
6. Do you remember any recent libel cases in this country or abroad?

Text 3

COPYRIGHT LAW

The purpose of a **copyright** is **to secure** for the creator of original material all the **benefits** earned by creating it. Copyrights **apply** not **only to** written words but also to illustrations, plays, musical works, motion pictures, sound recording, graphics, sculptures, pantomimes, and dances. Two aspects of **copyright law** concern you: the use of copyrighted material and the protection of the work that you do.

The copyright law protects original material published during and after the author's lifetime as well as unpublished material. Material does not have to be printed or distributed for **copyright protection**. As soon as it is created in a concrete form, it is protected, particularly if it bears **a copyright notice** but also even if it does not.

Distributing or offering to distribute copies of a work to the public is considered publication. Such distribution may be **free** or paid.

If you want the most **unassailable** copyright protection, you should take formal steps to acquire it as soon as any material is published.

News releases, **features**, and illustrations accompanying them are not normally copyrighted. **Booklets, leaflets**, books, and similar publications usually are copyrighted unless there is a desire to allow others to reproduce them. In that case, it is customary to place a notice in the publication stating that reproduction and distribution of copies is **permissible without charge.**

Notes

copyright – авторское право; обеспечивать авторское право
secure – гарантировать, обеспечивать
benefit – выгода, денежная прибыль
apply to smth – касаться, относиться к чему-л.
copyright law – закон о защите авторских прав
copyright protection – охрана авторских прав
copyright notice – предупреждение о сохранении авторского права
free – бесплатный
unssailable – неприступный, прочный
news release – пресс-релиз, сообщение для печати
feature – статья, очерк
booklet – брошюра
leaflet – листовка, брошюра
permissible – разрешенный
without charge – бесплатно

Упражнения

***10. Укажите, в каком из приведенных значений данные слова употребляются в тексте.**

1. *free*
   a. allowed to live, exist, or happen without being controlled or restricted
   b. not costing any money
   c. not being used
   d. not a prisoner
2. benefit
   a. the money or other advantages that you get from something
   b. something that gives you advantages or improves your life in some way
   c. a concert, performance, dinner etc. arranged to make money for a charity

3. a feature	a. a part of something that you notice because it seems important, interesting, or typical b. a piece of writing about a subject in a newspaper or a magazine c. a movie being shown at a theater
4. to apply	a. to make a formal, usually written request to be considered for a job, an opportunity to study at a college, etc. b. to use something as a method, idea, or law in a particular situation, or process c. to have an effect in or to concern a person, group, situation or an idea
5. charge	a. the amount of money you have to pay for goods or services b. an official statement made by the police saying that someone may be guilty of a crime c. a strong effort to do something

***11. Соотнесите слова в левой колонке с их определениями в правой.**

1. copyright	a. allowed by law or by the rules
2. press release	b. to get or achieve something that will be permanent
3. permissible	c. the legal right to be the only maker or seller of a book, play, etc. for a specific length of time
4. to secure	d. not able to be criticized, attacked, or made weaker
5. unassailable	e. an official statement giving information in the newspapers, television, or radio

***12. Заполните пропуски данными словами.**

applied, force, feature, copyright, permissible

1. Mitchell's family owns the.....to her book.
2. A bus service from the station to the airport is.....
3. The term "mat" can be.....to any small rug.
4. He won an award for his.....on the children of migrant farmworkers.
5. The use of racial preferences is not.....under the new law.

13. Ответьте на вопросы.

1. What is the purpose of a copyright ?
2. Do copyrights apply only to written words?
3. How long does the copyright law protect original material?
4. Does material have to be printed for copyright protection?

5. Is distributing or offering to distribute copies of a work to the public considered publication?
6. Are news releases normally copyrighted?
7. How do you understand the statement, "Ideas cannot be copyrighted, but expression of these ideas can be"?
8. Do you know any cases of copyright infringement? Speak on them.

Text 4

TRADEMARK LAW

An organization's name, products, slogans, and manufacturing processes are usually **trademarked.** That means that these things are officially registered and their use is **restricted to** the owner or manufacturer. **A trademark** is legally protected and should be **capitalized** whenever it is used.

A trademark is a valuable **asset jealously** guarded by its owners. Sony, Coca-Cola, IBM, Porsche, McDonald's, and Reebok are all registered trademarks. So is the Mercedes-Benz star symbol.

Organizations and corporations protect their trademarks in various ways. One method is to establish standard policies on how the organization should use and display its trademarked names. You must know the registered trademarks of your company and how they may be used.

Companies also guard their trademarks by continually using them, sending **advisories** to **media outlets** about proper use of these trademarks, placing advertisements in journalism publications reminding readers of trademarked names, and **monitoring publications** to ensure that other organizations are not **infringing on** a trademark. If they are, **legal action** is threatened or taken.

In sum, make yourself familiar with what might be considered trademark **infringement.** Even if you are innocent, the money and time spent **fighting a lawsuit** are rarely worthwhile.

Here are some guidelines the courts use to determine if a trademark has been infringed:

- Has the **defendant** used a name as a way of **capitalizing on** the reputation of another organization's trademark?
- Is there **an intent** to create confusion in the public mind? Is there an intent **to imply** a connection between the defendant's product and the item identified by the trademark?
- How similar are the two organizations? Are they providing the same kinds of services or products?
- Has the original organization actively protected the trademark by publicizing it and using it?
- Is the trademark unique? A trademark that merely describes a common product might be in trouble. Microsoft, for example, **lost a bid to trademark the word "windows"** for its exclusive use.

Notes

trademark – иметь торговую марку; торговая марка
be restricted – быть ограниченным
capitalize – печатать или писать с прописной буквы
asset – ценное качество; "плюс"; достояние
jealously – рьяно, ревностно
advisory – информационное сообщение, инструкция
media outlets – редакции газет и журналов, местные радиостанции или телестудии
monitor publications – контролировать публикации
infringe on a trademark – нарушать закон о торговой марке
legal action – судебный иск
infringement – нарушение
fight a lawsuit – защищать иск в суде; отстаивать дело
defendant – ответчик
capitalize on – наживаться, извлекать выгоду
intent – намерение
imply – подразумевать, предполагать
lost a bid to trademark the word "windows" – не удалось получить слово "windows" в качестве торговой марки

Упражнение

***14. Укажите, в каком из приведенных значений данные слова употребляются в тексте.**

1. to capitalize
   a. to supply a business with money so that it can operate
   b. to calculate the value of a business based on the value of its stock.
   c. to write or type a letter of the alphabet using a capital letter
2. to monitor
   a. to carefully watch, listen to, or examine something over a period of time
   b. to secretly listen to other people's telephone calls, foreign radio broadcasts, etc.
3. a bid
   a. an offer to do work or provide services for a special price
   b. an attempt to achieve or obtain something
   c. an offer to pay a particular price for something, especially at an auction

4. to be restricted	a. to be limited or controlled by law or rules b. to affect only a limited area c. to be limited in what you can do, or in your movements
5. an asset	a. the things that a company or person owns, that can be sold to pay debts b. something or someone that is useful because they help you succeed or deal with problems

***15. Соотнесите слова в левой колонке с их значениями в правой.**

1. to infringe	a. an official warning or notice giving information about a dangerous situation
2. a trademark	b. the person in a court of law who has been accused of doing something illegal
3. a lawsuit	c. to do something that is against a law or that limits someone's legal rights
4. an advisory	d. a problem or complaint that someone brings to a court of law to be settled
5. a defendant	e. a special name, sign, or word that is marked on a product to show that it is made by a particular company

***16. Заполните пропуски данными словами.**

asset, advisories, infringed, lawsuit, intent, restricted

1. The court ruled that he had.....the company's patent.
2. Neighbors have filed a.....to stop development.
3. The Department of State issues travel.....to alert U.S.citizens to conditions overseas.
4. The gun was fired with.....
5. Visiting hours are.....to evenings and week-ends only.
6. The most powerful.....we have is our skilled, dedicated workforce.

17. Ответьте на вопросы.

1. What is usually trademarked?
2. Is a trademark legally protected?
3. How do organizations and corporations protect their trademarks?
4. What are the main guidelines the courts use to determine if a trademark has been infringed?
5. Which of these guidelines do you think the most important?
6. Do you know any trademarks of the companies in Russia?

18. Объясните следующие утверждения.

1. A trademark is a valuable asset jealously guarded by its owners.
2. Make yourself familiar with what might be considered trademark infringement.

GLOSSARY

accomplish an illegal action – совершать противозаконное действие
bring action – возбуждать судебное дело
co-defendant – соответчик
commit libel – оклеветать
copyright – авторское право
copyright – обеспечивать авторское право
copyright law – законы о защите авторских прав
copyright notice – предупреждение о сохранении авторского права
copyright protection – охрана авторских прав
defamation – клевета
defendant – ответчик
fight a lawsuit – защищать иск в суде, отстаивать дело
impairment of reputation – нанесение ущерба репутации
inflict injury – причинять вред
infringe on a trademark – нарушать закон о торговой марке
infringement – нарушение
lawsuit – судебный иск
legal action – судебный иск
libel – письменная клевета
libel suit – иск о клевете
litigation – судебный процесс, судебное дело, тяжба
plaintiff – истец
ramification of libel law – ответвление, часть закона о клевете
regulatory agencies – органы государственной власти
slander – клевета, злословие; устная клевета, оскорбление
trademark law – закон о торговой марке
trial – судебный процесс

Ключи

1. 1c; 2b; 3b; 4a; 5a
2. 1c; 2e; 3a; 4b; 5d
3. 1 – liable; 2 – defamation; 3 – trial; 4 – damaging; 5 – disseminate
6. 1a; 2b; 3a; 4a; 5c;
7. 1b; 2d; 3e; 4c; 5a

8. 1 – libel; 2 – contempt; 3 – inflict; 4 – negligent; 5 – disregard

10. 1b; 2a; 3b; 4c; 5a

11. 1c; 2e; 3a; 4b; 5d

12. 1. copyright; 2 – free; 3 – applied; 4 – feature; 5 – permissible

14. 1c; 2a; 3b; 4a; 5b

15. 1c; 2e; 3d; 4a; 5b

16. 1 – infringed; 2 – lawsuit; 3 – advisories; 4 – intent; 5 – restricted; 6 – asset

PART FOUR

Legal Texts for Scanning Reading

UNIT ONE

THE AIMS OF LAW

Law has several aims. They are all concerned with making society more stable and enabling people to flourish. The law forbids certain ways of behaving like murder*, libel*, and requires others, like paying income tax*. If people disobey the rules* the law threatens them with something unpleasant (often called a sanction*), like being punished or having to pay compensation*. The idea is that within this framework of do's and don'ts people can live more securely*. If they are more secure they will treat one another better.

A second aim is the following. Laws guarantee to people who buy and sell goods, make wills*, take employment, form companies and so on that the state will if necessary enforce* these arrangements.

A third aim is to settle disputes* about what the law is and whether it has been broken*. Taking these three aims together, we see that law not only threatens* those who do what it forbids* but promises to protect* people's interests. It imposes restrictions* on them but also gives them certain guarantees.

Lastly, a very important aim of law is to settle what the system of government is to be. Today and for the last few hundred years we have been mainly governed by sovereign states. That is changing. We are now increasingly governed, indirectly or directly, by international bodies (for example the European Union). But the state still occupies centre stage, especially when it comes to enforcing laws.

Notes

murder – убийство
libel – клевета (письменная), диффамация
pay income tax – платить подоходный налог
disobey the rules – не подчиняться правилам
sanction – санкция
pay compensation – выплачивать компенсацию
live securely – жить в безопасности
make wills – составлять завещания
enforce – обеспечивать соблюдение, исполнение
settle disputes – разрешать споры, разногласия
break the law – нарушать закон
threaten – угрожать
forbid – запрещать
protect – защищать
impose restrictions – накладывать ограничения

LAW, PUBLIC LAW

Law, body of official rules and regulations, generally found in constitutions, legislation, and judicial opinions, that is used to govern a society and to control the behaviour of its members.

Law serves a variety of functions. Laws against crimes, for example, help to maintain a peaceful and orderly society*. Courts contribute to social stability by resolving disputes* in a civilized fashion*.

Property and contract laws facilitate* business activities and private planning. Laws limiting the powers of government help to provide some degree of freedom that would not otherwise be possible. Law has also been used as a mechanism for social change; for instance, at various times laws have been passed to inhibit* social discrimination and to improve the quality of individual life in matters of health, education, and welfare.

Notes

peaceful and orderly society – общество мира и порядка
by resolving disputes – *разрешая споры, разногласия*
in a civilized fashion – цивилизованным образом
facilitate – создавать, предоставлять условия
inhibit – запрещать

DEVELOPMENT OF LAW

Historically, the simplest societies were tribal*. Even in the absence of courts and legislatures there was law – a blend* of custom, morality, religion, and magic*. Wrongs against the tribe, such as sacrilege* or breach of tribal custom*, were met with ridicule* and hostility by the group. Wrongs against individuals, such as murder, theft, or failure to repay a debt*, were avenged* by the family of the victim.

One of the most significant developments in the history of law were the Twelve Tables of Rome. Engraved in the 5th century BC, the tables were largely a declaration of existing custom concerning such matters as property, payment of debts, and appropriate compensation or other remedies* for damage* to persons. The Twelve Tables serve as a historical basis for the widespread modern belief that fairness* in law demands that it be in written form. These tables led to civil-law codes that provide the main source of law in much of the world.

The common-law systems of England, and later of the United States, began with various local customs. New rules created a system of centralized courts that operated under a single set of laws that superseded* the earlier laws.

Notes

tribal – общинный
blend – смесь
magic – колдовство, магия
sacrilege – святотатство, богохульство
breach of tribal customs – нарушение общинного обычая
ridicule – осмеяние, насмешка
failure to repay a debt – неспособность вернуть долг
avenge – мстить
remedies – возмещение
damage – ущерб
fairness – справедливость
to supersede – заменять, вытеснять

Ответьте на вопросы.

1. What are the aims of the law concerned with?
2. What does the law forbid?
3. Name the arrangements that the law will if necessary enforce?
4. In what cases does the law impose restrictions on people?
5. Why are we now increasingly governed by international bodies?
6. What functions does the law serve?
7. How were wrongs against the tribe met?
8. When were the Twelve Tables of Rome engraved?
9. Why was the historical role of the Twelve Tables so great?

UNIT TWO

WHAT IS THE CONSTITUTION? (THE USA)

The Constitution is the basic and supreme law of the United States. It prescribes* the structure of the U.S. Government, provides the legal foundation on which all its actions must rest, and enumerates and guarantees the rights due all citizens*.

The Constitution is a document prepared by a convention of delegates from 12 of the 13 States that met in Philadelphia in 1787. The original charter, which replaced the Articles of Confederation and which became operative* in 1789, established the United States as a federal union of States, a representative democracy within a republic. The framers provided a Government of three independent branches. The first is the legislature, which comprises a two-house or bicameral Congress consisting of a Senate, whose members are apportioned equally* among the States, and a House of Representatives, whose members are apportioned among the States according to* population. The second, the executive branch, includes the President and Vice President and all subordinate* officials of the executive departments and executive agencies. The third branch, the judiciary, consists of the Supreme Court and various subordinate Federal courts created by public law.

The 27 amendments approved since 1791 are also considered an integral part* of the Constitution. These include amendments 1 through 10, known collectively as the Bill of Rights, and amendments 11 through 27, which address a wide range of subjects*. At the present time, there are four amendments without ratification. These deal with child labor, titles of nobility from foreign powers, and certain States rights. Two recently proposed amendments, have been approved by Congress; i.e. equal rights for women and men and voting representation for the District of Columbia in the Senate and House.

Notes

prescribe – предписывать
the rights due all citizen – права, принадлежащие всем гражданам
became operative – начали действовать, вошли в силу
are apportinated equally – равно распределены
according to – согласно, соответственно
subordinate – подчиненные
integral part – неотделимая часть
wide range of subjects – широкий круг вопросов

THE CONSTITUTION: ORIGINS AND DEVELOPMENT (THE RF)

During the Soviet period, power was concentrated in Communist Party institutions and was highly centralized. Federal institutions, located in

Moscow, were much more powerful than the regional institutions of the 15 republics. Although Russians dominated the central party and government institutions, the RSFSR's own institutions were even weaker and less autonomous than those of the other 14 republics. Unlike the other Soviet republics, Russia did not have its own separate Communist Party, security police (KGB), or Academy of Sciences for most of the Communist era. Although Russia did have its own government (Council of Ministers) and legislature (Supreme Soviet), these institutions did not exercise their full constitutional powers*.

The RSFSR's 1978 constitution only became significant when the Soviet Union collapsed. The constitution gave the legislative branch supremacy* over the executive branch. However, the legislators' lack of political experience* made government extremely difficult. As a result, increasing power was granted to the newly established state presidency, sometimes on a temporary basis. In 1992 and 1993 when President Yeltsin and the legislature clashed over policy*, the absence of clear and realistic constitutional demarcation* between executive and legislative power became a major problem.

A new constitution, passed by referendum in December 1993, solved this difficulty*. Although it greatly increased the power of the presidency, it also established basic democratic guidelines*, such as fixed terms of office*, electoral procedures*, and universal suffrage* for all citizens aged 18 or older. In principle, the constitution also guarantees civil rights and the rule of law.

Notes

exercise constitutional powers – осуществлять (реализовать) конституционные полномочия
supremacy – верховенство; примат; супремация
lack of political experience – отсутствие политического опыта
clash over policy – столкнуться по политическим вопросам
demarcation – разграничение
solve the difficulty – разрешить проблему
democratic guidelines – *зд.* основные демократические принципы
fixed terms of office – определенный (закрепленный) период пребывания у власти
electoral procedures – процедура выборов
universal suffrage – всеобщее избирательное право

Ответьте на вопросы.

1. What does the Constitution prescribe?
2. When and by whom was the US Constitution prepared?

3. What three independent branches did the framers provide a Government with?
4. What are the functions of the three independent branches?
5. How many and what sort of amendements to the Constitution have been approved since 1791?
6. How can the position of the RSFSR be characterized during the Soviet period?
7. What was a major problem of the RSFSR 1978 constitution?
8. In what way did a new constitution solve the difficulty of the previous constitution?

Unit Three

THE STATE

The state has an important part to play in making and enforcing law*. But what is a state? It is a political unit with a territory that the international community* treats* as independent, for example the United Kingdom, Barbados or Japan. Law settles* how the state is to be governed* (its constitution), what duties it owes* its citizens, and what duties they owe to one another and to it. The law of the state consists of a system of government, together with a framework* for making the life of citizens more secure* and for enabling* them to flourish.

Since each state has its own system of law, there are many legal systems*: the law of the United Kingdom, Barbados, Japan etc. The laws of states differ a bit but also have much in common. Legal systems are called systems because in each state or part of a state with its own laws there are official bodies concerned with the whole of its law. These bodies – the branches of the state – are the legislature, which makes laws, the executive government, which puts laws into effect, and the judges, who decide disputes about the law. These branches of government try to see that the laws do not conflict with one another. In other words, they treat the laws as pans* of a system that hangs together*.

Notes

enforce law – исполнять закон, придавать исковую силу
the international community – международное сообщество
treat – относиться, рассматривать
settle – учреждать; постановлять
govern – управлять
owe – быть должным, быть обязанным
framework – *зд.* организация; система;
secure – безопасный
enable – давать возможность, право
legal system – правовая система
pans – чаши весов
hang together – держаться вместе

FEDERALISM

State power can also be divided up on a geographical basis. The system for doing this is called federalism. In a federal state there is a federal government, legislature and courts. There are also regional governments, legislatures and courts. Both may get their powers* from a written constitution. Powers to make laws*, to govern* and to judge* are each divided

between the federal state and the regions. The regions go by different names in different countries (states*, provinces*, lands*, cantons*, republics*).

One reason for dividing power in this way is that the country is too large to be governed conveniently* from a single centre (Australia, the USA). Another is that its regions vary* in language or culture (Switzerland, India, Canada). A third is that a central government might be too powerful if it was not balanced by regional governments with some independent powers (Germany, the USA).

In a typical federation defence and foreign policy belong to the federal government, education to the regions, and the power to tax is divided between the two. So the federation and the regions may both have power to make laws on similar subjects. Since each region has its own independent powers and courts, it has its own regional legal system, alongside* the federal legal system.

If the federation also separates* the law-making, governing and judging functions the law becomes very complicated and expensive. But they allow a country to hold together* when otherwise it would fall apart*.

Notes

power – власть, могущество
powers – (властные) полномочия
make laws – создавать законы
govern – управлять
judge – судить
state – штат
province – провинция
land – земля
canton – кантон
republic – республика
conveniently – удобно, успешно
vary – различаться, варьировать
alongside – наряду
separate – разделять, отделять
hold together – держаться вместе, быть единым
fall apart – распасться, распадаться

FEDERALISM: STATE AND LOCAL GOVERNMENTS (THE USA)

The states and local communities in the U.S. have rights that in other countries generaly belong to the central government.

All education at any level, for example, is the concern of the states*. The local communities have the real control at the public school* level. They control administration of the schools. They elect the school board officials*,

and their local community taxes largely support the schools. Each individual school system, therefore, hires and fires and pays its own teachers. It sets its own policies within broad state guidelines*. Similarly, there is no national police force, the FBI influence being limited to a very few federal crimes, such as kidnapping. Each state has its own state police and its own criminal laws. The same is true with, for example, marriage and divorce laws, driving laws and licenses, drinking laws, and voting procedures. In turn*, each city has its own police force that it hires, trains, controls, and organizes. Neither the President nor the governor of a state has direct power over it. By the way, police departments of counties are often called "sheriff's departments". Sheriffs are usually elected, but state and city police officials are not.

There are many other areas which are also the concern of cities, towns, and villages. Among them there are opening and closing hours for stores, street and road repair, or architectural laws and other regulations. Also, one local community might decide that a certain magazine is pornographic and forbid its sale, or local school board might determine that a certain novel should not be in their school library. A court, however, may later tell the community or school board that they have unfairy attempted to exercise censorship*. But another village, a few miles down the road might accept both. The same is true of films.

Most states and some cities have their own income taxes.

Notes

the concern of the states – забота штатов
public school – *ам.* государственная школа
school board officials – члены школьного попечительского совета
guidelines – директивы, руководящие указания
in turn – в свою очередь
censorship – цензура

RUSSIAN FEDERALISM (A)

It is hard, to find something analogous* to the Russian federalism, both in the history and among the modern state models. It does not resolve itself to the nation-state structure*, what the Soviet model was like: at the same time it did not take the path* of just a territorial structure, the latter common to* most foreign countries. Smooth theoretical concepts, even being attractive externally* similar to the structures already approved in the West could not eliminate*, not even soften* the complex and contradictory processes generating crises and destabilizing Russian state structure. Russian historical traditions, its population structure and huge territory, the mentality

of the nations and its geopolitical position are too essential for this country. It was necessary to build federalism in a country where the relevant parameters* of the state constituents differ from each other: such as economic development, social characteristics, scientific, educational as well as cultural formation. There are 89 subjects of the Federation with more than 150 nationalities in this country. The situation in which two sovereignties are combined within a framework of one state, when the sovereignty of a federative state encompasses, covers the sovereignty of its republics, contributes to already quite a sophisticated design.

Concluding treaties on power delegation actually is not a feature 'sine qua non'* of the Russian federalism development. At the same time, it may be considered necessary and useful. Such treaties are to supplement and develop the provisions vested in the Constitution, especially in cases when specific issues remain unsolved, e.g. which matters must be controlled by the center and which by a subject of the Federation. The concept of the joint control implies that both the center and a subject of the Federation should know their regulation limits. The need for agreement can also emerge when a subject of the Federation has particular natural, national, geographic and other conditions. However, all treaties should be in congruence* with the Constitution of the Russian Federation. All aforesaid allows to define the Russian Federation as constitutional. The treaty with Tatarstan stands somewhat apart but this is rather an exception from the general rule.

Notes

analogous – аналогичный, подобный
it does not resolve itself to the nation-state structure – национально-государственная структура не является решением проблемы
take the path – пойти по пути
common to – типична для
being attractive externally – *эд.* звучащие привлекательно
eliminate – уничтожить
soften – смягчать
the relevant parametres – соответствующие параметры
feature sine qua non – *лат.* условие, без которого нельзя (обойтись)
in congruence – в соответствии

RUSSIAN FEDERALISM (B)

One of the main federalism development problems in the Russian Federation is the distinction of control matters* and authority between the Federation and its subjects* (republics, regions, autonomies). The history of our country has shown that, with the exception of autonomies which had

special rights regarding* language and national culture, Russia has been created and developed as a centralized unitary state*. The Declaration of State Sovereignty, passed on June 12, 1990 as well as the Federative Treaty, concluded in 1992, have not only formally but also de facto confirmed Russian political system developing according to the tenets* of sovereign nationhood. The new Russia announced the federative state structure in the Constitution of the Russian Federation, passed by the plebiscite* on December 12, 1993.

Articles 71 and 72 of the Russian Constitution determine the exclusive control matters of the Federation and the matters under the joint supervision* of the Federation and its subjects. However, it remained indefinite*, how to mark off* those matters, what would be the demarcating tools*. It could be expected that right after the Constitution a special act would be written which would have established the above principles and the order of their implementation. However, there was no such act hitherto*. In 1994, two treaties were signed which specified a variety of issues regarding the relations between the central power and subjects of the Federation, in particular, the republics. These are treaties of the Federation with Tatarstan (October 15, 1994) and Bashkartostan (August 3, 1994). Other treaties followed immediately, for example such a document was signed with Nizhny Novgorod oblast (region) on June 8, 1996. Having become quite brisk, the practice of concluding treaties and agreements between governing institutions of the center and the subjects of the Federation produced vivid debates on 1) whether our country is just a constitutional federation or a federation of the mixed constitutional and treaty kind or 2) what to do if such a treaty contains provisions contrary to* those of the Russian Constitution. Many of the vexed problems* go back to the events in the Chechnya area.

Notes

control matters – вопросы управления
subjects – субъекты (федерации)
regarding – относительно
unitary state – унитарное (единое) государство
tenets – принцип, норма
plebiscite – всенародный опрос
the joint supervision – совместный надзор
remain indefinite – оставаться переменным, неопределенным
mark off – зд. различать
demarcating tools – разграничивающие документы
hitherto – до сего времени
contrary to – противоречащие
vexed problems – горькие, досадные проблемы

RUSSIAN FEDERALISM (C)

The federal act "On principles and order of distinction of control matters and authorities between governing institutions of the Russian Federation and governing institutions of the subjects of the Russian Federation ' came into force on July 23, 1999. This act has got across the forms of implementation of such authorities as well as across adoption order* for the federal acts regulating matters under the joint supervision* of the center and the subjects of the Russian Federation. The order of conclusion* of the treaties and agreements between them was also established. This document grants the right to* the subjects of the Federation, when federal acts are being prepared, to influence the concept of such an act on the very first stage – by sending regional. representatives (with the right of advisory vote*) to the applicable* committees and commissions of the Lower House of the Parliament – the State Duma. The controversies* on the control matters'distinction and the delegation of authorities* will be now resolved by the parties concerned* during negotiations with using diverse conciliation procedures*. Prior to* this act, the President could have signed a treaty with a governor or a chief of republic, and the agreement was sometimes not even published in the newspapers, now all the treaties may be signed only after having passed them through the regional Legislative Assembly and through the Upper House of the Federal Parliament – the Federation Council.

The law also requires that all the branches of the state power key* their legal acts according to the above Act within the period of six months. The treaties and agreements operating presently at the territory of the Russian Federation are also to be keyed according to the federal Act and the Constitution of the Russian Federation within a period of three years. The subjects of the Russian Federation should do the same with their acts within a period of one year.

The federative structure of the Russian Federation is asymmetrical, i.e. its subjects are not uniform, thus having their particular problems. The solutions are also sometimes unique. However, the ways in which the solutions are made should be legally clear. The above mentioned Act has to determine this order, in exact conformity with* provisions of the Constitution of the Russian Federation.

Notes

adoption order – порядок принятия
joint supervision – совместный надзор
order of conclusion – порядок заключения
grant the right – предоставлять право
right of advisory vote – право совещательного голоса
applicable – *эд.* соответствующий

controversy – разногласие
delegation of authorities – передача власти
parties concerned – заинтересованные стороны
conciliation procedures – согласительные процедуры
prior to – до этого
key to – *зд.* подчинять, подстраивать
in conformity with – в соответствии

THE SEPARATION OF POWERS (THE UK)

The state has three main functions: legislative*, executive* and judicial*. The legislature makes laws*; the executive enforce the laws* and governs* the country; the judges decide disputes* that come before them and in doing so interpret the law* and apply* it do the facts of the case* they have to judge*.

The legislature and executive in Britain are not separate. The executive government (cabinet and ministers), who govern the country and execute the laws*, belong to the legislature. The government depends on the legislature, since by convention it must resign* if it loses the confidence* of the House of Commons. But the House of Commons also depends on the government, because if the government decides that the time has come to call a general election* the members of the House will (almost certainly) have to face re-election and may lose their seats.

The judges in Britain are more independent, since a judge of the higher court* cannot be dismissed* except when the legislature asks the Queen to dismiss him for misbehaviour. Even so, the highest judges* are members of the House of Lords, which is part of the legislature. And their independence is less important than it is in the USA, since they cannot declare that a law made by the legislature is against the constitution and so invalid*.

Notes

legislative – законодательный
executive – исполнительный
judicial – судебный
make laws – создавать законы
enforce laws – обеспечивать соблюдение и исполнение законов
govern – управлять
disputes – ссоры, разногласия
interpret the laws – толковать законы
apply laws – применять законы
case – дело (судебное)
judge – судить
execute laws – исполнять законы
resign – уходить в отставку

confidence – доверие
general election – всеобщие выборы
higher courts – верховные суды
dismiss – увольнять
highest judges – верховные судьи
invalid – юридически недействительный; не имеющий силы

CHECKS AND BALANCES

Two ideas underlie* the separation of powers*. The first is that, to avoid* too much concentration of power*, the same people should not legislate, govern and judge. Each branch of the state should be independent of the others*. But if each branch is independent of the others, the danger is that they will each go their own way* and abuse their powers*. To avoid this, a second idea comes into play*. There should be some way in which each branch can be kept in check* by the others.

The American constitution adopts both these ideas. The three branches of the state are separate. The legislature is the Congress, consisting of an upper house (Senate) and a lower house (House of Representatives). Executive power is in the hands of the President, who heads the government. Judicial power is in the Supreme Court. No one can be both a legislator and a member of the government, or a legislator and a judge, or a member of the government and a judge. The three branches are separate in that no one can belong to two of them at a time. But each can be checked by the others if it abuses its powers.

Notes

underlie – лежать в основе
the separation of powers – разделение полномочий
avoid – избегать
concentration of power – сосредоточие власти
be independent of the others – быть независимым от других
go one's own way – идти (развиваться) собственным путем (образом)
abuse their powers – злоупотреблять властью
come into play – *зд.* возникать, появляться на арене
be kept in check – находиться под контролем

CITIZEN

Citizen is an individual member of a political Society or state. In the republics of antiquity*, the term citizen signified not merely a resident* of a town but a free, governing member of the state. Greek citizen had the right to participate in both the legislative and judicial functions of their political

community. In ancient Rome two classes of citizens were recognized. The first possessed the rights of citizenship; the second possessed these rights and the additional right to hold state office*.

In the United States the word citizen is used in its broadest sense*. An individual may be at once a citizen of the United States and of the state in which he or she resides. However, the citizen owes first and highest allegiance* to the federal government. A citizen of the United States may be native-born* or naturalized*. A naturalized citizen was originally a subject of a foreign state but has become a citizen of the United States. A person may also hold dual citizenship, meaning that two different nations officially recognize that person as a citizen. This occurs most commonly when a child is born in one country and the parents hold citizenship in another.

Notes

republics of antiquity – античные общества
resident – житель
hold state office – занимать должность в государственном учреждении
in its broadest sense – в самом широком смысле
allegiance – обязательство верности и повиновения
nature-born citizen – гражданство по рождению
naturalized citizen – натурализованный гражданин

Ответьте на вопросы.

1. What is a state?
2. What does the law of the state consist of?
3. In what way do the laws of states differ?
4. What do the laws of states have in common?
5. Name the branches of the states and their functions.
6. Give possible reasons for dividing power.
7. Whom do defense and foreign policy belong to in a typical federation?
8. What certain basic structures are shared by all the US states?
9. Does the Constitution limit the federal government to specific powers and why?
10. Is education the concern of the US states?
11. Is there national police force in the US?
12. Give examples of some areas which are the concern of American cities, towns and villages.
13. Give examples of the complex character of the Russian federalism.
14. What makes the Russian federalism such a sophisticated design?
15. What is the role of treaties on power delegation in the RF?

16. What is one of the main federalism development problems in the RF?
17. What have the Declaration of State Sovereignty and the Federative Treaty confirmed?
18. What two treaties were signed in 1994 and what did they specify?
19. When and in what document was the order of conclusion of the treaties and agreements between the subjects of the federation established?
20. How does the law require to key all the legal acts?
21. Explain the asymmetrical federative structure of the Russian Federation.
22. The legislature and executive in Britain are not separate. Explain this statement.
23. Why are the judges in Britain more independent?
24. Name and explain the three main functions of the US.
25. In what cases can the President veto legislation passed by Congress?
26. What power concerning a passed law does the US Supreme Court possess?
27. What two ideas underline the separation of power?
28. In what way does the American constitution adopt both these ideas?
29. Who is a citizen?
30. What did the term "citizen" signify in the republics of antiquity?
31. Give the sense of the word "citizen" in the US.
32. Who is a native born citizen?
33. Who is a naturalized citizen?

UNIT FOUR

THE POLITICAL SYSTEM OF GREAT BRITAIN

English Constitution is the law of Britain providing for the form and powers of government*. The English constitution is not a systematic written statement of law, but consists of a body of statutory law*, customs* and judicial interpretations*. As an example, English law makes no provision* for the Cabinet of the British government. The Cabinet originated in the 15th century and developed to its present status as the executive branch of the government. Unlike constitutions that make explicit provision for their amendment* and are often difficult to change, the English constitution may be changed easily. It has been altered in the past, by an act of the British Parliament or by judicial interpretation.

Parliament is British legislature of the United Kingdom of Great Britain and Northern Ireland. It consists of the Crown, the House of Lords, and the House of Commons, but in common usage it refers only to the Lords and Commons. Cabinet members, including the Prime minister, are members of one house or the other and are responsible to the House of Commons. The House of Lords is the highest court of appeal* in Britain's judicial system*.

COMMONS AND LORDS

The House of Commons has 651 elected members. Elections are set by the prime minister but must be held at least every five years. Because of the strict party discipline, important decisions are often made in less formal meetings of the cabinet and party caucus*.

The House of Lords, with about 1200 members is made up of the bishops of the Church of England and the hereditary* and life peers*, all of whom are appointed by the Crown. Its power is limited to delaying money bills* for 30 days and other bills for one year. As a court of appeal, its deliberations are limited to those peers with judicial experience.

Notes

form and powers of government – структура и полномочия правительства
statutory law – статутное право (основанное на законодательных актах)
customs – обычаи
judicial interpretations – судебное толкование
provision – условие, положение
amendment – поправка

highest court of appeal — высший апелляционный суд
judicial system — судебная система
party caucus — партийное собрание
hereditary and life peers — наследственные и пожизненные пэры
delay money bills — откладывать финансовые проекты законов

MONARCHY

Political stability owes much to* the monarchy. Its continuity has been interrupted only once (the republic of 1649-60) in over a thousand years.

Today the Queen is not only head of State, but also an important symbol of national unity.

The monarchy provides a point of stability which is very important for political life.

The UK is a constitutional monarchy. It means that it is the country that has the Queen and a democratically elected government.

The Queen is technically Head of State but as a constitutional monarch she has little power. Although the constitutional monarch legitimizes a government* and has to approve government decisions, in fact these duties are largely symbolic. The Queen follows the advice of parliament, although if she disapproves of government policy she can express her opinion to the prime minister, as they have a meeting together once a week and she receives copies of all cabinet papers. But there is a well spread opinion that the Queen basically does what the government tells her to do.

In law the Queen is head of the executive, an integral part of the legislature, head of the judiciary, the commander-in-chief of all the armed forces of the Crown and supreme governor* of the established Church of England.

Her role as Head of State is largely ceremonial — an example is the annual opening of Parliament by the Queen, when she delivers a speech setting out her Government's plans for the coming year. She gives the Royal Assent* to laws passed by Parliament.

Notes

owes much to — многим обязано
legitimize a government — узаконивать, признавать законным правительство
supreme governor — глава
Royal Assent — королевская санкция

CONGRESS (THE USA)

Congress, the legislative branch* of the federal government, is made up of* the Senate and the House of Representatives. There are 100 Senators, two from each state. One third of the Senators are elected every two years for six-year terms of office*. The Senators represent all of the people in a state and their interests.

The House has 435 members. They are elected every two years for two-year terms. They represent the population of "congressional districts" * into which each state is divided. The number of Representatives from each state is based upon* its population. For instance, California, the state with the largest population, has 45 Representatives, while Delaware has one. There is no limit to the number of terms a Senator or a Representative may serve.

Almost all elections in the United States follow the "winner-take-all"* principle: the candidate who wins the largest number of votes in a Congressional district is the winner.

Congress makes all laws, and each house of Congress has the power to introduce legislation. Each can also vote against legislation passed by the other. Because legislation only becomes law if both houses agree, compromise between them is necessary. Congress decides upon taxes and how money is spent.

Notes

legislative branch – законодательная ветвь власти
is made up of – состоит из
six-year terms of office – шестилетний срок полномочий
congressional districts – избирательные округа (в Конгресс)
is based upon – основан на
winner-take-all – победителю достается все

RUSSIAN FEDERATION: LEGISLATURE

The Federal Assembly is Russia's bicameral* national legislature. It is composed of an upper house, called the Council of the Federation*, and a lower house, the State Duma*.

The Council of the Federation has 178 members – two representatives from each of the 89 administrative units that make up the Russian Federation.

The State Duma has 450 members. Voters elect half of the Duma members by casting a vote* for a specific party listed on the ballot*; these 225 seats are divided among the qualifying parties* by proportional representation. The other 225 Duma members are elected individually from electoral districts throughout the country.

Each of Russia's 89 constituent units* has at least one electoral district; some densely populated units* have more than one. In the December 1995 legislative elections, each party on the ballot needed at least 5 percent of the vote in order to gain representation* in the State Duma. Prior to the 1995 elections, legislators served two-years terms; in 1995 they began serving four-year terms, as mandated by the constitution.

Notes

bicameral – двухпалатный
Council of the Federation – Совет Федерации
State Duma – Государственная Дума
cast a vote – отдать голос
on the ballot – в бюллетене
qualifying party – партия, обладающая цензом
constituent units – избирательные округа
densely populated units – густонаселенные округа
gain representation – завоевать представительство

RUSSIAN FEDERATION: EXECUTIVE

Power is concentrated in the executive branch, which is headed by a President. He or she is directly elected by the people to a four-year term and cannot serve more than two consecutive terms*. The President serves as the commander in chief of the armed forces and chairs the Security Council, which is the central decision-making body for matters of defense. With the Defense Minister, the President has control over Russia's nuclear weapons. The President appoints the Prime Minister, who is second in command. The appointment is subject to* ratification by the State Duma, the lower house of Parliament; if the State Duma rejects* the candidate for prime minister three times, the president can dissolve the legislature* and call for new elections. The president has the right to dissolve the legislature under certain other conditions as well. In the event of the president's death or permanent incapacitation*, the Prime Minister temporarily takes on the President's duties, but new presidential elections must be held within three months.

Notes

two consecutive terms – два последовательных срока
is subject to – подлежит
reject – отвергать
dissolve the legislature – распустить законодательный орган
permanent incapacitation – длительная нетрудоспособность

Ответьте на вопросы.

1. What does the English Constitution consist of?
2. When did the Cabinet originate?
3. Why can the English Constitution be changed easily?
4. Give the structure of British Parliament .
5. What is the role of the monarchy in the UK?
6. What are the functions of the Queen?
7. How are proposals for legislation and draft laws adopted in the UK?
8. What is Congress made up of?
9. How long is the term of office for a Senator and a Representative?
10. Who is represented by the Senators?
11. Who is represented by the House of Representatives?
12. What is the structure of the Russian Federal assembly?
13. How many members are there in the Council of the Federation?
14. How many members are there in the State Duma?
15. How are the deputies elected?
16. How is the President elected in the R.F.?
17. Whom does the President appoint ?
18. What happens if the State Duma rejects the candidate for Prime-Minister?

UNIT FIVE

COURTS

Courts, branch of government are established to administer Civil Law and Criminal Law. The term court is also applied to international tribunals intended to provide for the resolution at law* of controversies* among governments, such as the International Court of Justice, established by the United Nations (UN) in 1945, after World War II.

Courts are classified in many ways. Among the general classifications are courts of record* and courts not of record*, courts of superior jurisdiction* and courts of inferior jurisdiction*, trial courts* and appelate courts*, and civil courts* and criminal courts*. In courts not of record, no detailed record is made of the proceedings. Courts of superior jurisdiction, often called higher courts or appellate courts, are generally those to which appeals are made from decisions of courts of inferior jurisdiction, referred to* as lower courts or trial courts. Civil and criminal courts deal with infractions* of the civil law and criminal law, respectively. Courts with special, limited jurisdictions -- such as military courts* -- are known by the names of these jurisdictions. Other courts are designated* by the territorial limits of their jurisdictions; these include the state courts of the United States.

EARLY COURTS

Archaeologists and anthropologists have establishted the existence of courts in simple societies over wide areas of Asia, Africa, and Europe. Primitive courts formed part of a complex social structure in which administrative, judicial, and religious functions were intermingled*. In the highly developed civilizations of the ancient worlds, notably those of Assyria and Egypt, judicial and executive functions were undifferentiated and centralized in the monarch as head of state. The ancient legal document known as the *Code of Hammurabi* provides insight* into the Babylonian courts of the 18th century BC.

The judicial system of ancient Athens introduced the right of aggrieved litigants* to appeal the decisions of magistrates to the people of Athens, assembled as a heliaia (public assembly). In ancient Rome, criminal, civil, and other jurisdictions were differentiated and were exercised by separate courts and officials.

Notes

at law – в соответствии с правом; в силу права
controversies – споры
courts of record -- суды письменного производства

courts not of record – суды не письменного производства
courts of superior jurisdiction – суды высшей инстанции
courts of inferior jurisdiction – суды низшей инстанции
trial courts – суды первой инстанции
appellate courts – апелляционные суды; суды второй инстанции
civil courts – гражданские суды
criminal courts – уголовные суды
referred to – *зд.* обозначаемые
infractions – нарушения
military courts – военные суды
designate – определять, устанавливать
intermingle – переплетать, смешивать
insight – взгляд во внутрь
aggrieved litigants – пострадавшая сторона

WESTERN EUROPEAN TRIBUNALS

Medieval courts were an outgrowth* of the tribal courts* of the Germanic peoples. As the Germanic tribes organized into territorial states, the primitive tribal courts increased in number and became differentiated. In the 8th century AD the Germanic territorial states were part of the realm of Charlemagne, who initiated the practice of dispatching royal commissioners* to examine the functioning of local courts and to supplement* the justice they dispensed*.

When the Normands conquered England in 1066, they imposed the Carolingian judicial system on the Anglo-Saxons. A long struggle between the king and the nobility ensued* , and judicial supremacy eventually was won by the Crown. Before this victory, however, King John had been compelled to sign the Magna Carta (1215), which initiated the gradual separation of judicial from executive and legislative governmental powers. Like many other features of the English judicial system, this separation of powers was incorporated into the courts of the New World. Centuries after the signing of the Magna Carta, the British Parliament acquired appellate jurisdiction over both civil and criminal cases. This function was subsequently confined to* the House of Lords.

The essential features of the French judicial system were established after the French Revolution of 1789 by the Code Napoleon. Many European and Latin American judicial systems are modeled on that of France.

In some Islamic countries of the Middle East, such as Saudi Arabia, justice is dispensed by specially trained priests* in conjunction with* the king, or sultan. In other Middle Eastern and Asian countries the courts operate similarly to those of the West – that is, as relatively independent institutions within a parliamentary framework.

Notes

outgrowth – перерастание
tribal court – общинные суды
royal commissioners – королевские посыльные
supplement – дополнять
dispense – отправлять (правосудие)
ensure – происходить в результате
confine to – *зд.* предоставлять
trained priests – обученные священники
in conjunction with – совместно с

THE FEDERAL JUDICIARY (THE USA)

The third branch of government, in addition to the legislative (Congress) and executive (President) branches, is the federal judiciary. Its main instrument is the Supreme Court*, which watches over* the other two branches. It determines whether or not their laws and acts are in accordance with* the Constitution. Congress has the power to fix* the number of judges sitting on the Court*, but it cannot change the powers given to the Supreme Court by the Constitution itself. The Supreme Court consists of a chief justice* and eight associate justices*. They are nominated by the President but must be approved by the Senate. Once approved, they hold office* as Supreme Court justices for life. A decision of the Supreme Court cannot be appealed to any other court. Neither the President nor Congress can change their decisions. In addition to the Supreme Court, Congress has established 11 federal courts of appeal and, below them, 91 federal district courts.

The Supreme Court has direct jurisdiction in only two kinds of cases: those involving foreign diplomats and those in which a state is a party. All other cases which reach the Court are appeals from lower courts. The Supreme Court chooses which of these it will hear. Most of the cases involve the interpretation of the Constitution. The Supreme Court also has the "power of judicial review"*, that is, it has the right to declare laws and actions of the federal, state, and local governments unconstitutional. While not stated in the Constitution, this power was established over time.

Notes

the Supreme Court – Верховный суд
watch over – наблюдать
in accordance with – в соответствии
fix – *зд.* определять
sit on the Court – заседать в суде
chief justice – главный (старший) судья

associate justices – члены Верховного суда
hold office – служить; находиться в должности
power of judicial review – право (полномочие) судебного контроля

THE COURT SYSTEM OF THE UK

Nowadays courts can be created only by act of Parliament. Courts may be classified in a number of ways, for example, superior and inferior courts*. The most usual difference is, however, between criminal and civil courts.

In criminal cases the courts which are the first to hear cases are the magistrates' courts* and the Crown Court* (for more serious cases). The Court of Appeal* in London has a Criminal Division and a Civil Division. It hears appeals in criminal cases from the Crown Court, and in civil cases, from the county courts and the High Court. The highest court of Appeal in England, Wales and Northern Ireland is the House of Lords (Scotland has its own High Court.)

Magistrates' Courts

A magistrates' court usually consists of a 'bench' of three lay, unpaid magistrates known as justices of the peace 'JP's*. There are nearly 28,000 lay magistrates serving some 450 courts.

Usually those charged with criminal offences first appear in a magistrates' court. The less serious offences are tried by the magistrates themselves. The most serious offences, such as murder, manslaughter, rape and robbery, are tried on indictement* (or formal accusation) only by the Crown Court. Usually those charged with such offences first appeal before a magistrates' court, which decides whether to commit them to the Crown Court for trial.

Youth Courts

Cases involving people under 18 are heard in youth courts* (formerly juvenile courts). These are special magistrates' courts. There are restrictions on public access and media coverage.

The Crown Court

The Crown Court sits at about 90 centres and is presided over by High Court judges, full-time 'circuit judges'* and part-time recorders*. England and Wales are divided into six circuits for the purpose of hearing criminal cases.

The Crown Court tries the most serious offences. All contested cases are presided over by a judge sitting with a jury.

The High Court deals with the more complicated civil cases (it also cover some criminal cases) as well as dealing with appeals from tribunals and from magistrates' courts in both civil and criminal matters. It has several divisions, such as the Family division dealing with the family problems or the Chancery Division dealing with wills, administration of property, etc.

Notes

superior courts – суды высшей инстанции
inferior courts – суды низшей инстанции
magistrates' courts – магистратские, мировые суды
the Crown Court – Суд Короны
the Court of Appeal – Апелляционный суд
justices of the peace (JP's) – мировые судьи
indictement – обвинительный акт
youth, juvenile courts – суды по делам несовершеннолетних
circuit judges – суды окружного суда
recorder – рекордер (мировой судья с юрисдикцией по уголовным и гражданским делам созывает суд четвертных сессий)

COURTS IN THE UNITED STATES

Courts in the United States, judicial organs* of government, comprising two principal systems: the federal courts*, referred to as United States courts, and the state courts*. The federal courts were provided for in the Constitution of the United States on the theory that the judicial power* of the federal government could not be entrusted* to the states, which was necessary for a strong national government. Congress passed the Judiciary Act of 1789, organizing the Supreme Court of the United States and establishing a system of federal courts of inferior jurisdiction*.

Federal Courts

The courts established under the power granted by the U.S.Constitution are known as constitutional courts*. Judges of constitutional courts are appointed for life* by the President with the approval of* the Senate. They are the district courts*, the courts of appeals* (before 1948, circuit courts of appeals), and the Supreme Court*. The Supreme Court is the highest appellate tribunal* in the country and is a court of original jurisdiction* in some cases. The Supreme Court is also the final judicial arbiter* of federal constitutional question.

Other federal courts are called legislative courts*. These are the Claims Court*, the Court of International Trade*, the Tax Court*, and the territorial courts established in the federally administered territories of the United States.

State Courts

Each state has an independent system of courts operating under the constitution and laws of the state. The character and names of the courts differ from state to state. The state courts as a whole have general jurisdiction, except in cases in which exclusive jurisdiction has been vested in the federal courts.

Notes

judicial organs – судебные органы
federal courts – федеральные суды
state courts – суды штатов
judicial power – судебная власть
entrust – вверять
inferior jurisdiction – нижестоящая юрисдикция
constitutional courts – конституционные суды
be appointed for life – назначать пожизненно
with the approval of – с одобрения
district courts – федеральные районные суды первой инстанции
courts of appeals – апелляционный суд (высшая судебная инстанция)
the Supreme Court – Верховный суд
tribunal – суд
court of original jurisdiction – суд *первой инстанции*
final judicial arbiter – третейский судья
legislative courts – суды, образованные законом Конгресса США
the Claims Courts – суд тяжб
the Court of International Trade – суд международной торговли
the Tax Court – *налоговый суд*

JUDICIARY (THE RF)

The highest judicial body is the Constitutional Court, composed of 19 judges who are appointed by* the President and approved* by the Council of the Federation. The Constitutional Court's mandate is to rule on* the constitutionality of legislative and executive actions. In the early 1990s the Constitutional Court tried unsuccessfully to mediate* the conflict between the legislature and the president. With the adoption of the 1993 constitution, the Constitutional Court's powers were reduced and its membership was changed.

Below the Constitutional Court are the Supreme Court and the Supreme Arbitration Court. The Supreme Court rules on civil criminal, and administrative law, and the Supreme Arbitration Court handles economic suits*. As with the Constitutional Court, judges for these high courts are appointed by the president and approved by the upper house of the legislature. The 1978 constitution had established life terms* for judges, but the 1993 constitution changed appointments of high court judges to 12-year terms. By law, all judges in Russia are independent and cannot be removed from office*.

Notes

are appointed by – назначаются
approved by – одобряются
rule on – *зд.* следить, контролировать, осуществлять контроль
mediate – служить посредником, улаживать
suits – иски, судебные дела
life terms – пожизненный срок работы
be removed from office – быть уволенным со службы

RUSSIAN FEDERATION: LEGAL AGENCIES OF THE EXECUTIVE BRANCH

The Ministry of Justice* of Russia exercises* important coordinating functions in the legal field, but it is not a law enforcement agency like the US Department of Justice. It is an executive agency that provides administrative support for the courts with the formally stated purpose of improving the administration of justice and making judicial administration more efficient.

The Ministry is directly involved* in systemization and codification of the laws. It directs the activities of notarial and official registry offices*, forensic centers* and laboratories. The Ministry promotes the development of legal science. The Ministry trains legal personnel for courts and runs courses of continuing legal education for judges.

The state Legal Department of the President* is an extra-constitutional body was established approximately three years ago that functions as advisor to the President on legal policy. Since its formation it has become very active in issues involving reform of the judiciary and criminal law.

Law enforcement functions are performed by the Procurator General's Office* (procuratura) with subordinate agencies in cities and provinces, by the Ministry of Internal Affairs with subordinate agencies, and by the Federal Counterintelligence Service*. The Procurator's office supervises the legality in the activities of all law enforcement agencies, investigates crimes and prosecutes criminals.

The Ministry of Internal Affairs* is the headquarters of all police agencies (called "militia" in Russia), but this ministry also runs correctional institutions* and fire forces*, and performs some administrative functions. The Federal Counterintelligence investigates (jointly with other agencies or separately) organized crime and terrorist acts.

Notes

the Ministry of Justice – Министерство юстиции
exercise – осуществлять

is involved in – вовлечено в
notarial and official registry offices – нотариальные конторы и официальные регистрационные учреждения
forensic centers – судебные учреждения
the State Legal Department of the President – Государственная правовая комиссия при Президенте.
Procurator General's Office – Генеральная прокуратура
the Federal Counterintelligence Service – ФСБ
the Ministry of Internal Affairs – Министерство внутренних дел
correctional institutions – исправительные учреждения
fire forces – пожарные силы

Ответьте на вопросы.

1. How are courts classified?
2. How are courts of superior jurisdiction called?
3. How are courts of inferior jurisdiction referred to?
4. What do civil and criminal courts deal with?
5. When did the first courts appear?
6. In what forms did early courts exist?
7. Were judicial and executive functions differentiated or not in the civilizations of the ancient worlds?
8. How did the judicial system of ancient Athens work?
9. In what position was jurisdiction in ancient Rome?
10. How did the medieval courts grow?
11. Speak on the appearance and role of the Magna Carta.
12. What function was confined to the House of Lords?
13. Speak about the Code Napoleon.
14. How is justice dispensed in some Islamic Countries?
15. Enumerate the main functions of the US Supreme Court?
16. What power has Congress concerning the Supreme Court?
17. Give the structure of the Supreme Court.
18. In what two cases has the Supreme Court direct jurisdiction?
19. How can courts be created in the U.K.?
20. Describe the functions of the magistrates' courts, the Crown Court, the Court of Appeal in the U.K.
21. What offences are tried by the magistrates themselves?
22. Where are the most serious offences tried?
23. Speak about youth courts, the Crown Court, Civil Courts.
24. What two principal systems do courts in the United States comprise?

25. What are the US federal Courts and their functions?
26. What are the US State Courts and their functions?
27. Who appoints and approves the Constitutional Court in the RF?
28. Who composes the Constitutional Court?
29. What does the Supreme Court rule on?
30. Give the structure of the Supreme Court.
31. What are the functions of the Ministry of Justice of Russia?
32. In what way is the Ministry involved in legal activities?
33. When and why was the state Legal Department of the President established?
34. By whom are law enforcement functions performed?
35. What does the Ministry of Internal affairs run?

Unit Six

CIVIL LAW AND COMMON LAW

One important theme is the relation between custom, writing and codes. In civil law system the main branches of the law are embodied in written codes, which try to be comprehensive* and clear. There are codes of criminal law, of criminal procedure, of private law, of commercial law, and perhaps others.

The codes are meant to contain the main principles of each branch of the law. Other statutes fill in the details. In fact the supplementary laws* may be as important as the codes. The codes have a special prestige. They are not easily changed.

Scholarly writing*, often by university professors, has an important place in civil law system. Scholars explain and comment on the codes, statutes and decisions of courts. Court decisions are also important, but are anonymous*. Individual judges remain in the background*.

Common law system has no codes. The decisions of judges of the higher courts are binding*, and much of the law is left to the courts to develop. When a court consists of several judges, each can express a separate opinion. Scholarly writing has some influence, and its influence is growing, but the opinion of practising lawyers – professional opinion – is more important.

Notes

comprehensive – исчерпывающий,
supplementary laws – дополнительные законы
scholarly writing – *зд.* научные работы
anonymous – безымянный, анонимный
in the background – на заднем плане, в тени
binding – обязательные

COMMON LAW AND STATUTES

The whole of the law of England and Wales can be split* according to where it arose, that is, classified by source. The law is either made by the judges-developing principles case by case, by analogy with earlier cases, along fairly settled lines, or it is made in a broad sweep* by Parliament by means of statutes (Acts of Parliament). There is a prescribed method for the creation of a statute.

Judge-made law is called common law*. In theory it is comprised of rules which already exist and simply require pronouncement by the judge. In fact, of course, judicial creativity does exist, although it varies between judges. Acts of Parliament (statutes) sometimes enable others (e.g. ministers, local authorities) to make laws on a very restricted basis. These laws appear as 'rules' or 'regulation' or 'byelaws'* and while they are made by others

they possess the delegated authority of Parliament,. All this law made by or on behalf of Parliament, taken together, is called legislation. Contract law* and the law of tort* are almost entirely common law while company law and the law of employment* have been created almost entirely by means of legislation.

Notes

be split – разделяться
in a broad sweep – *широким жестом*
common law – общее право
byelaws – подзаконные акты
contract law – договорное право
law of tort – деликтное право
company law – договорное право
law of employment – трудовое право

COMMON LAW AND EQUITY

'Common law'* is a slippery phrase*. It is used to distinguish* judge-made law from law made by Parliament. It is also used to distinguish that law originating from the English system as exported to other nations and law made along the lines of Roman law, called civil or civilian law*. It is essential to be careful with terminology, not just with the terms used but also with their context. This classification takes the phrase 'common law' yet again and uses it to distinguish the law developed by the judges (as opposed to legislation) and to pick out* the law which dates back across the centuries to the old common law courts and that law which (although developed by the judges) dates back to the Court of Chancery (the court from which the modern Chancery Division was developed). This is a body of law called 'equity'*. It is important to be able to spot* equitable rules and principles and to be able to distinguish them from common law rules and principles. To do this requires some grasp of the history which gave rise to these two systems or strains of law within the English law taken as a whole.

Notes

common law – общее право
slippery phrase – неопределенная, неточная формулировка
distinguish from – отличать, различать
civil law – гражданское право
pick out – отличать
equity law – право справедливости
spot – вычленить

CIVIL LAW

Civil Law, term applied to the body of private law* used in those countries in which the legal system is based on modified ancient Roman law*. Civil law is used in most nations in Europe and Latin America, as well as in some countries in Asia and Africa. The term civil law is also employed to distinguish* those legal codes that deal with civil relationships (such as citizenship, marriage, and divorce) from other codes such as those dealing with criminal law.

Historical Development

In the 6th century a commission appointed by* the Roman emperor Justinian consolidated all the sources of law, resulting in the Corpus Juris Civilis* (Body of Civil Law). The Corpus Juris had no immediate effect* in Western Europe, but in the second half of the 11th century it was rediscovered in Italy. The study of law based on the Corpus Juris became an important part of Continental law. Combined with canon law* and the customs of merchants*, they formed a body of law known throughout continental Europe.

During the 17th and 18th centuries the authority of the Corpus Juris began to decline* as it was set* for the codification of modern civil law. In the 19th century most civil-law countries codified the bulk of their legal statutes*.

Notes

the body of private law – совокупность норм частного права
Roman Law – Римское право
distinguish from – отличать от
appointed by – назначенный кем-л.
the Corpus Juris Civilis – совокупность норм гражданского права
immediate effect – немедленное воздействие
canon law – каноническое право
the customs of merchants – обычное торговое право
decline – пойти на спад, убыль
the stage was set – *зд.* место было подготовлено
legal statute – законодательный акт, статут

GEOGRAPHICAL EXPANSION OF THE CIVIL LAW*

The civil law gradually spread to* colonies of France, the Netherlands, Belgium, Spain, and Portugal. Civil-law systems were also voluntarily adopted in Japan, South Korea, Taiwan, Thailand, and Turkey. In a number of countries, moreover, the civil law is a component of a mixed legal system. For example, in Scotland, South Africa, and Sri Lanka, the legal system combines civil- and common-law elements.

Comparison of Civil Law and Common Law

The codes of civil law and court procedures vary* widely, but in general are distinguished from* common law in several ways. In civil law judicial interpretations* are based primarily on a system of written law, rather than on the rule of precedent emphasized in common law. The law of evidence, important in common-law countries, has no counterpart* in civil law. Much more systematically than common law, civil law separates public and private law. Finally, trial by jury*, a major feature of common law, is not often used in civil law. However, despite divergences* in methods and terminology, a basic similarity is found in the ultimate results* reached by both systems.

Notes

expansion – распространение
spread to – простираться
vary – различаться, варьироваться
distinguish from – отличаться от
judicial interpretation – судейское толкование
counterpart – соответствие
trial by jury – процесс с судом присяжных заседателей
divergences – расхождения
ultimate result – конечный результат

CIVIL LAW IN WESTERN EUROPE (A)

The western Roman empire collapsed in the 5th and 6th centuries AD. Six hundred years later the scholarly study of law revived, starting in Bologna, the first university in Western Europe, around 1088 AD. Despite the gap in time, Charlemagne (768–814) and his successors, the "Holy Roman Emperors of the German nation", had been treated in the West as Justinian's heirs. So Justinian's laws were still the laws of Western Europe. The universities therefore taught law students Justinian's civil law, as opposed to the customary law of Saxony, Burgundy, Castile, England and so on.

Between 1100 and 1500 universities spread all over Europe, from Sicily to Scotland and Portugal to Poland. The law syllabus* was everywhere the same: Justinian's civil law. At the same time lawyers of the Western church began to collect and study church laws*, or canons. The most important collection of these dates from about 1140. Canon law*, as church law was called, was studied in the universities alongside civil law. Since the Western church had jurisdiction over marriage, wills* and lawsuits* between clerics, canon law was a separate system. Civil and canon law, however, both being basically Roman, had much in common. Each influenced the other.

At first civil lawyers studied the texts in Justinian's codes one by one. Then they began to search for the general principles to be found in them, and tried to fit the customary laws* of the states where they were living into the civil law. The drawbacks of Justinian's law books now proved to be merits. They were a treasure house in which the lawyer or administrator could almost always, if he looked hard enough, find ideas and solutions adapted to the changed conditions of the later Middle Ages and Renaissance. The contradictions they contained were a help. They gave the civil lawyer a choice between different rules.

Notes

syllabus – программа
canon law – каноническое право
church law – церковное право
will – завещание
lawsuit – судебное дело, иск, тяжба
code – кодекс законов
customary law – обычное право

CIVIL LAW IN WESTERN EUROPE (B)

In the states into which Europe was divided university-trained lawyers* were made judges* and advisers*. These lawyers naturally applied civil law* whenever local customs* did not settle the dispute*. Around 1400 it came to be accepted that this was the right thing to do.Except when the church had jurisdiction*, for example over wills, Civil law governed the affairs of lay people* wherever custom was silent. And civil law meant Justinian's law as understood after some three centuries of study in the universities. The process by which civil law became the subsidiary* law of most of Europe is called the reception of Roman law*. England, was an exception. There, Roman law had some influence but was never received completely,

The civil law was supposed to be very rational. It was described as written reason*. But from the sixteenth century it was sharply attacked. The new nation states rejected the Holy Roman (really German) empire. Each state claimed to be sovereign and to decide for itself what its laws should be. Church courts lost much of their jurisdiction.

But a system of written law can only be replaced by other written laws. In the eighteenth century critics of the civil law started a movement to replace Justinian's books by new codes of law*. The new codes were to be much shorter than Justinian's books. They were to be well arranged and easy to understand. Each state was to have its own code.

Notes

university-trained lawyers – юристы с университетским образованием
judge – судья
adviser – консультант (по правовым вопросам)
apply civil law – применять гражданское право
local customs – местные обычаи
settle a dispute – разрешить спор
jurisdiction – юриспруденция
lay people – не являющиеся юристами люди
subsidiary law – дополнительный закон
Roman law – Римское право
written reason – письменное обоснование
codes of law – своды законов, кодексы законов

CIVIL AND CRIMINAL LAW

Criminal law is concerned with the general well being* and civil law with individual rights and duties. It might be wrong, however, to classify an individual act as being either a civil or a criminal wrong* . Many acts are both. For example, if you take your coat to be cleaned and the cleaner steals it then, clearly, the crime of theft* has been committed. Furthermore there is a breach of the contract* to clean and a tort of conversion* (denial of your right to your property) has also been committed. It is not in the act itself that the distinction lies, but in the consequences* which may follow from it. After you have been run over in a road accident the driver could be arrested and charged with the crime* of reckless driving* and he could be sued* by you, the victim, in the tort of negligence*. The act of driving so as to injure you was therefore a criminal offence* and a civil wrong. This is sometimes called 'dual liability'*.

There have been attempts made at defining crime generally, but the criminal law really comprises nothing more than the total of those activities which those responsible for creating and developing the criminal law have seen fit to include*.

The activities embraced by the criminal law extend from treason, murder and rape at one end to exporting antiques without a licence, flying a kite near an airfield, failing to sign your driving licence, sounding the car horn while the car is at rest and conversing with a bus driver at the other.

It should be understood that while the criminal law comprises most of what the average citizen imagines as the law (at least at first), the civil law is a vast thing – a thousand years old and still growing! The more important areas within its scope include contract law*, which in its applied aspects

includes the sale of goods and services, credit, hire-purchase, agency, contracts of employment and landlord and tenant agreements* – to name but a few*. The civil law also includes the law of tort – a term for actions in negligence*, nuisance*, defamation*, trespass* and others. Further, it includes property law*, the law of succession*, most of family law* and the law of trusts*.

Notes

well being – благосостояние
criminal wrong – уголовное правонарушение
theft – воровство
breach of the contract – нарушение контракта
tort of conversion – обращение вверенного имущества в свою пользу, присвоение имущества
consequences – последствия
charge with the crime – обвинить в совершении преступления
reckless driving – неосторожное вождение (автомобиля)
be sued – отвечать в суде
tort of negligence – преступление, совершенное по преступной неосторожности
criminal offence – уголовное преступление, правонарушение
dual liability – двойная ответственность
the criminal law have seen fit to include – *эд.* уголовное право рассматривает как подлежащий включению в него
contract law – договорное право
tenant agreement – договор жилищной аренды
name but a few – назвать лишь несколько
negligence – халатность
nuisance – вред
defamation – клевета
trespass – нарушение чужого правовладения
property law – право собственности
law of succession – наследственное право
family law – семейное право
law of trust – трастовое право

Ответьте на вопросы.

1. What is characteristic of civil law system?
2. What do the codes contain?
3. Why are the codes not easily changed?
4. Speak on the importance of scholarly writing in civil law system.

5. How is the law of England and Wales classified by source?
6. What is common law comprised of?
7. How is common law distinguished from civil law?
8. Which body of law is called equity?
9. What is the legal system based on modified Roman law called?
10. How did Continental law appear?
11. How and where did the civil law spread?
12. Compare civil law and common law.
13. When did the scholarly study of law revive in Western Europe?
14. Was Justinian's law still the laws of Western Europe?
15. What was the law syllabus in medieval Europe?
16. When did lawyers of the Western church begin to collect and study canons?
17. Was canon law a separate system? Why?
18. Outline the development of the civil law.
19. Who were made judges and advisers in Western Europe of the 15th century?
20. What is the reception of Roman law?
21. When was Roman law sharply attacked and why?
22. When did a movement to replace Justinian's books start in Europe? Why?
23. What is the criminal law concerned with?
24. What is civil law concerned with?
25. Give an example of wrong classified as being both civil and criminal.
26. What activities are embraced by the criminal law?
27. What does the civil law include?

Unit Seven

PUBLIC LAW (A)

Law, body* of official rules and regulations, generally found in constitutions, legislation, and judicial opinions, that is used to govern a society and to control the behaviour of its members.

Law serves a variety of functions. Laws against crimes, for example, help to maintain a peaceful and orderly society. Courts contribute to social stability by resolving disputes in a civilized fashion. Property and contract laws facilitate* business activities and private planning. Laws limiting the powers of government help to provide some degree of freedom that would not otherwise be possible. Law has also been used as a mechanism for social change; for instance, at various times laws have been passed to inhibit* social discrimination and to improve the quality of individual life in matters of health, education and welfare.

The common-law systems of England, and later of the United States, began with various local customs. New rulers created a system of centralized courts that operated under a single set of laws.

Public law concerns the relationships within government and those between governments and individuals. The development of administrative law is a comparatively recent occurence*. Numerous federal and state administrative agencies now make rules that reach into all manner of activities, including licensing, regulation of trades and professions, protection of health, and promotion of welfare*.

Laws concerning taxation and the regulation of business are in the public area, as is criminal law, which involves the exercise of governmental power by way of enforcement and punishment.

Notes

body – сборник, свод (законов)
facilitate – обеспечивать, предоставлять возможность
inhibit – запрещать
recent occurence – недавнее событие
welfare – благосостояние

PUBLIC LAW (B)

Public law concerns the relationships within government and those between governments and individuals. The development of administrative law is a comparatively recent occurrence*. Numerous federal and state administrative agencies now make rules that reach into* all manner of activities*, including 1) licensing, 2) regulation of trades and professions, 3) protection of health*, and 4) promotion of welfare*.

United States constitutional law is the most extensive and pervasive* of any country in the world. It is embodied in the Constitution of the United States and in the opinions of the Supreme Court of the United States rendered over time. The Constitution allocates* power within the federal government and between the federal and state governments. The first ten amendments (the Bill of Rights) and subsequent amendments* define fundamental individual rights by placing limits on the powers of government.

Laws concerning taxation and the regulation of business are in the public area, as is criminal law, which involves the exercise of governmental power by way of enforcement and punishment. Debate has been continuous regarding the legitimacy of government intervention* in areas where moral attitudes are in significant conflict, such as in matters of sexual practices, pornography, birth control, and euthanasia.

Private Law

Private law involves the various relationships that people have with one another and the rules that determine their legal rights and duties among themselves. The area is concerned with rules and principles pertaining* to private ownership and use of property, contracts between individuals, family relationships, and redress by way of compensation* for harm inflicted* on one person by another. The relative significance of purely private law has decreased in modern times. Public law dominates in government-controlled societies. Democratic societies increasingly have a mix of public and private law.

Notes

comparatively recent occurence – сравнительно недавнее появление

reach into – *зд.* проникать, доставать
all manners of activities – все виды деятельности
protection of health – здравоохранение
promotion of welfare – увеличение благосостояния
pervasive – распространяющийся, проникающий повсюду
allocate – определять, предписывать
subsequent amendments – последующие поправки
intervention – внедрение
pertaining – относящийся
redress by way of compensation – возмещение путем компенсации
harm inflicted – нанесенный ущерб

PUBLIC INTERNATIONAL LAW

Before the Second World War, international law deemed* states the sole subjects* of international rights and duties while individual human beings were merely the objects* of international law. Individuals were unable to

seek remedies* for injuries suffered at the hands of other states. It was for the national state to adopt the grievance* and seek compensation* at the international level. As a result, any awards made in settlement of an international claim* belonged to the state and payments made to individuals suffering the wrong* were essentially discretionary*.

Thus states exclusively possessed the rights to enter into international obligations*, to seek redress* for injuries*, to exercise international rights and to acknowledge international duties. International law was the creation of states and exclusively regulated the relations between states. Colonies, protectorates, mandate and trusteeship territories were non-state entities* and could not be the subjects of international obligations.

A number of major inroads* have been made into this traditional doctrine. Firstly a twilight category* of semi-states has come to exist since 1945 which exercise limited sovereignty and international personality.

Clearly these semi-states have become limited subjects of international law.

The second major erosion* of the principle that states are the main subjects of international law has occurred as a result of the proliferation* of international organisations and agencies. In the Reparations Case (1949), the International Court declared that the United Nations had international personality for the purposes of initiating an international claim against Israel for wrongs committed against its officials. This capacity had to be exercised in an intra vires* manner which meant that the capacity of the organisation was limited to the express and implied powers of the organisation in the regulation of international affairs.

Notes

deem – *книжн.* полагать, считать
the sole subjects – единственные субъекты
the objects – объекты
seek remedies – искать средства правовой защиты
adopt the grievance – принимать жалобы
seek compensation – требовать возмещения
suffer the wrong – причинить вред
discretionaly – по своему усмотрению
enter into international obligations – принять на себя международные обязательства
redress – возмещение
injuries – вред, ущерб
entities – организации
inroads – посягательство, вторжение
twilight category – неясная категория

erosion — разрушение
prolifaration — распространение
intra vires — *лат.* внутренний

Ответьте на вопросы.

1. Give the defenition of public law.
2. Name a variety of functions law serves.
3. What does public law concern?
4. Why is United States constitutional law considered the most extensive and pervasive of any country?
5. What does private law involve?
6. What was the essence of the traditional doctrine of public international law before the Second World War?
7. Who possessed exclusively the rights to enter into international obligations, to exercise international rights and to acknowledge international duties?
8. By whom was the international law regulated?
9. What caused changes in the traditional doctrine?
10. What was the role of international organisation and agencies in changing the principle that states are the main subjects of international law?

Unit Eight

INTERNATIONAL LAW (A)

The legal process that concerns* relations among nations is called international law.

Such law differs greatly from national legal systems. No court has the authority or power* to give judgments* backed by* coercive sanctions*. Even in its most modern developments, international law is almost wholly based on custom*. The precedents* on which it rests* are the acts of independent governments in their relations with one another, including treaties* and conventions*. Behind many of its rules is only a moral sanction*: the public opinion of the civilized world. When treaties or conventions are involved, however, machinery to enforce them exists — either an arbitration* or conciliation procedure* or the submission of the dispute* to a regional or international court.

A body of rules* and principles is observed* or at least acknowledged* in international relations. These rules concern such matters as territorial titles and boundaries*, use of the high seas*, limits on war, telecommunication, diplomatic and consular exchange, and use of air space*. The major sources of international law on these matters are multilateral treaties*, international custom*, and such general principles recognized by civilized nations. The United Nations* is one of the primary mechanisms that articulate* and create international law. The General Assembly* and other agencies of the UN bring a combination of diplomacy, negotiation, and propaganda to bear on* world affairs* in ways that produce effective international treaties and affect world opinion*. Certain courts also have indirect impact*, including the International Court of Justice*. Domestic courts in various nations at times also engage in the articulation of international law.

Notes

concern — касаться, иметь отношение к
have the authority or power — иметь власть или полномочия
give judgments — выносить судебное решение
backed by — подкрепленный, поддержанный
coercive sanctions — принудительные санкции
custom — обычай
precedents — прецеденты
rest on — опираться, покоиться
treaties — договора
conventions — конвенции
a moral sanction — моральная (нравственная) санкция (воздействие)

arbitration – арбитражный суд
conciliation procedure – согласительная, примирительная процедура
the submission of the dispute – передача спора (разногласия) на рассмотрение
body of rules – совокупность правовых норм
be observed – соблюдаться
be aknowledged – признаваться
territorial titles and boundaries – названия и границы территорий
high sea – открытое море
air space – воздушное пространство
multilateral treaties – многосторонние договоры
international custom – международный обычай
articulate – провозглашать
the United Nations (UN) – Организация Объединенных Наций
the General Assembly – Генеральная Ассамблея
bear on – осуществлять
world affairs – международные дела
affect world opinion – влиять на международное мнение
indirect impact – косвенное (непрямое) воздействие
the International Court of Justice (ICJ) – Международный суд

INTERNATIONAL LAW (B)

International law is an extra system on top of* the state systems. It presupposes* state law, and could not exist without it, because international law can only be enforced* if states are prepared to put it into effect*. But it serves a different community; the international community*, international law is about the relations between independent states. It treats them as equals, whatever their population, wealth and power, so that in international law Barbados is on a level with Japan-like state law. International law consists of several elements. Again all of them aim at* stability in international life and the encouragement* of trade and other contacts between states. International law lays down* how international bodies such as the United Nations are set up*, and what powers* they have (their constitution). It also says how states must treat one another, how they must behave to international bodies and how the international bodies must behave towards them. It provides facilities* for states to make binding agreements (treaties)* and for the settlement of disputes*. International law can be enforced only when the states accept the power of a court* to decide whether the law has been violated*.

Notes

on top of – сверху, над
pressupose – подразумевать

enforce law – исполнять закон
put it into effect – осуществлять, реализовывать
international community – международное сообщество
aim at – направлять на
encouragement – поощрение, способствование
lay down – устанавливать правовые нормы
set up – создавать, основывать, организовывать
powers – полномочия
provide facilities – обеспечивать условия, создавать предпосылки
binding agreements (treaties) – обязательные соглашения (договоры)
settlement of disputes – решение споров (разногласий)
accept the power of a court – принимать полномочия суда
violate – нарушать (закон)

INTERNATIONAL LAW (C)

International law constitutes* that body of rules which governs* the relationships between sovereign states. These rules of law emanate from* the free wills* of states as expressed in conventions or by usages* which are generally accepted as expressing principles of law. The object of these rules is to regulate the relations between these co-existing independent communities as a means of achieving common aims* deemed* important in the collective opinion of the international community*. Since international law is the product of forces within international society, in order to understand the nature of the international legal system, it is necessary to analyse the structure and processes which function within the global society.

Historically, although several systems of international law have existed since antiquity, contemporary international law has its origins in Medieval Europe. Arguably, the most notable historic development was the signing of the Peace of Westphalia 1648 which established an embryonic sovereign state system* in Europe. Prior to* this agreement, the creation of a sovereign state system had been retarded* by the transnational authority of the Pope in spiritual matters and the control of the Holy Roman Emperor in political concerns*. In the signature of the Peace of Westphalia the Emperor acknowledged restriction* of his domination in favour of* the territorial autonomy of the various nation states which had previously composed the Empire, whilst* simultaneously the treaty recognised the limits of the authority of the Pope.

Notes

constitute – включать, составлять
govern – регулировать, управлять
emanate from – проистекать из
the free wills – свободная воля

by usages – практическим применением, использованием
achieve common aims – достигать общие цели
deem – признавать
international community – международное сообщество
embryonic sovereign state system – система суверенного государства в зачаточном состоянии
prior to – до этого
retard – замедлять
political concerns – политические вопросы
acknowledge restrictions – признать ограничения
in favour of – в пользу
whilst [wailst] – в то же время

THE LAW OF TREATIES

International conventional obligations, both bilateral and multilateral, are all regulated by the same general principles of international law. For the greater part, these are contained in the Vienna Convention on the Law of Treaties 1969.

The Vienna Convention is limited in application to treaties between states, although it can be applied as customary international law to agreements between non-state entities such as international organisations (Article 3).

The Convention defines the term "treaty" as "an international agreement concluded between states in written form and governed by international law, whether embodied in a single instrument* or in two or more related instruments and whatever its particular designation"* (Article 2). The term means all international agreements, protocols, exchanges of notes, declarations, etc regardless of designation. Although the Convention only refers to written agreements, valid obligations may also be constituted on an oral basis.

The Convention promotes the use of written agreements in order to discourage oral agreements which are more susceptible* to misinterpretation. In practice, unwritten agreements are limited by Article 102 of the UN Charter which stipulates* that "every treaty ... entered into by any Member of the United Nations ... shall as soon as possible be registered with the Secretariat and published by it ... (and) ... no party to any such treaty ... which has not been registered ... may invoke* that treaty or agreement before any organ of the United Nations."

In order for a treaty to be valid, it must be adopted by the free consent of the contracting parties. Consent may be expressed by signature, exchange of instruments constituting a treaty, ratification, acceptance, approval or accession*, or by any other means if so agreed.

Notes

instrument – документ, представляющий собой правовой акт
designation – предназначение
be susceptible – быть подверженным
stipulate – обусловливать, оговаривать
invoke – ссылаться, применять (статью)
accession – вступление (в права, в международный договор)

Ответьте на вопросы.

1. What is international law?
2. How does international law differ from national legal system?
3. What does international law rest on?
4. What machinery exists to enforce treaties or conventions?
5. Define the role of the United Nations in creating international law.
6. What community does international law serve?
7. How does international law treat independent states?
8. What elements does international law consist of?
9. What is the object of the rules that constitute International law?
10. Where and when does contemporary International law have its origin?
11. When was an embryonic sovereign state system established in Europe?
12. Where are International conventional obligations contained?
13. How is the term' treaty' defined by the Vienna Convention?
14. Why does the Convention promote the use of written agreements?
15. When is a treaty valid?

Unit Nine

THE EUROPEAN COMMUNITIES

The European Community came into being on 9 May 1950, when the French Foreign Minister, Robert Schuman, outlined the aims* and methods of the so-called Schuman plan. The aim of the plan was to integrate the coal and steel industries of those Western European countries who wished to participate in the scheme, creating a European Coal and Steel Community (ECSC). It was formally established in 1951 when six countries – Belgium, France, the Federal Republic of Germany, Italy, Luxembourg and the Netherlands – signed the Treaty of Paris. Common institutions* were established to govern the operation and development of the coal and steel industries in the Member States.

The establishment of the European Coal and Steel Community was seen by many as the first step towards even greater unity in Europe. First, certain industries such as coal and steel would be integrated; then the economies as a whole of the member countries would be integrated. Finally, this would give way to broader unity and might even lead to the formation of a United States of Europe.

In 1957, the process of integration was taken a step further with the signing of the Treaty of Rome establishing the European Economic Community (EEC), to integrate the member countries' economics as a whole, and the European Atomic Energy Community (Euratom), to encourage co-operation in the peaceful use and development of nuclear energy.

These three organisations, the ECSC, EEC and Euratom, together make up the European Community.

Notes

outline the aims – очертить задачи, цели
common institutions – совместные учреждения

THE OBJECTS OF THE EUROPEAN COMMUNITIES

The three Communities have a number of objects.

The European Coal and Steel Commmunity owes its inspiration* mainly to Robert Schuman, French Foreign Minister in 1950. After the Second World War, there was great anxiety felt by Europe, the United Kingdom and the United States, that some method of preventing another war between France and Germany must be found. Schuman proposed that the whole Franco-German coal and steel production, and possibly that of other European States, should be placed under the authority* of a single supra-national organisation, war between the members of this organisation would be impossible; armaments* would be indirectly controlled.

The European Atomic Energy Community has as its objective* the creation of 'conditions necessary for the speedy establishment and growth of nuclear industries'. In this respect it undertakes and funds research and disseminates results* and other information to the Member States.

The European Economic Community has as its aim the welding* of Europe into a single prosperous area by abolishing restrictions* affecting* the movement of people, of goods and of capital.

Notes

ows its inspirations – *зд.* обязана своим возникновением
be placed under the authority – находиться во власти (под руководством)
armaments – вооружение
objective – цель
disseminate results – распространять результаты
welding – *зд.* слияние
abolish restriction – уничтожить ограничения
affect – воздействовать, оказывать воздействие

THE EUROPEAN ECONOMIC COMMUNITY

The European Economic Community has as its aim the welding* of Europe into single prosperous* area by abolishing restrictions* affecting the movement of people, of goods and of capital.

Article 2 of the Treaty of Rome provides:

'The Community shall have as its task, by establishing a common market and progressively approximating the economic policies of Member States, to promote throughout Community a harmonious development of economic activities, a continuous and balanced expansion*, an increase in stability, an accelerated raising* of the standard of living* and closer relations between the States belonging to it.'*

Article 3 of the Treaty of Rome gives an extended version* of the principles by which the aims set out in Article 2 are to be achieved:

1. The elimination of customs duties* and quantitive restrictions* on the import and export of goods between Member States.

When all customs duties between Member States have disappeared there will be a single European market of approximately 270 million customers available to producers in Europe, and European manufacturers will be able to produce goods more cheaply on the scale* that is practised for example in the United States.

2. The establishment of a common customs tariff (CCT) on goods entering any Member State of the Community from a third country and the establishment of a common commercial policy*.

Article 48(2) of the Treaty of Rome provides that:

'*...any discrimination based on nationality between workers of the Members States as regards employment*' must be abolished.

3. The establishment of a Common agricultural policy
4. The regulation of restrictive* trade practices

Notes

welding – слияние, сплочение, объединение
prosperous – процветающий
abolish restrictions – уничтожать ограничения
approximating – приближая, сближая
expansion – *зд.* развитие
accelerated raising – ускоренный подъем
standard of living – уровень жизни
extended version – развернутое описание
customs duties – таможенные налоги
on the scale – в масштабе
quantitive restrictions – количественные ограничения
common commercial policy – общая торговая политика
restrictive – ограничительная

Ответьте на вопросы.

1. When did the European Community come into being?
2. What is the idea of Schuman plan?
3. What industries of Western European countries were integrated?
4. How many countries signed the Treaty of Paris?
5. How was the establishment of the European Coal and Steel Community seen by many?
6. When and how has the process of integration taken a step futher?
7. What organizations make up the European Community?
8. Enumerate the three objects of the European Communities and interpret them.
9. What is the aim of the European Economic Community?
10. Interpret Artice 2 of the Treaty of Rome.
11. What are the principles given in Article 3?
12. What does the establishment of a common customs tariff provide?

Unit Ten

BILLS OF RIGHTS (A)

There are several ways in which one can try to ensure that the rights of citizens listed in a bill of rights are respected. One of by convention. The earliest bill of rights was an English statute of 1689. Since in England (now Britain) the legislature is sovereign, it has the legal power to disregard the rights* listed in the bill, such as the right to free speech in Parliament. But in practice the legislature and government have respected these rights.

Another way of enforcing rights is through an international treaty. A state may agree to a treaty that gives citizens certain rights and sets up* a court to judge whether they have been respected by the government of the state, its legislature or its judges. This is what happened with the European Convention on Human Rights, which came into force* in 1953. For instance, the European Convention gives a person charged with a crime the right to a fair trial. Anyone who objects that he has not had a fair trial in, say, Britain can complain to the European Court of Human Rights in Strasbourg. If the court thinks that he has not been fairly tried, the state in which the trial has taken place has a duty to put the matter right, if necessary by changing the law.

Notes

disregard the rights – игнорировать, не принимать во внимание права
set up – создавать, основывать
come into force – войти в силу

BILLS OF RIGHTS (B)

Another way of dividing up powers is to divide them between the state and private citizens. This is done by listing in a law certain basic rights of citizens*. If there is a written constitution the list will be part of the constitution. When a bill of rights is in force* a citizen has some rights that cannot be taken away from him either by the legislature, or the government, or the courts.

For instance, if a citizen has the right not to be imprisoned for more than so many days without trial the legislature cannot make a law that provides for imprisonment for a longer period without trial. Nor can the government disregard the law and imprison its opponents without trial. The difficulty is, of course, to ensure that the legislature and government respect the law*.

Supporters of legislature sovereignty object to* this way of enforcing rights* because it gives too much power to judges.

But in most countries, even democratic governments and legislatures cannot always be trusted to respect basic human rights. So the judges may be the lesser of two evils.

Notes

basic rights of citizens – основные права граждан
in force – в действии, в силе
respect the law – уважать закон, соблюдать закон
object to – возражать
enforce the rights – осуществлять права

THE EUROPEAN CONVENTION ON HUMAN RIGHTS (A)

The European Convention on Human Rights (ECHR) was first adopted in 1950 and has now been signed by every country of Western Europe. Individual citizens of these countries have the right to bring a complaint* before the European Commission if they think their government has broken the Convention*. If the Commission agrees, it may try to persuade the country in question to rectify the breach*, or it may refer the matter to* the European Court of Human Rights, which has the right to order a change of law in that country. Covering countries with similar cultures and economic conditions, the ECHR is more practical than many international human rights agreements. However, individual governments still manage to delay making changes to their laws by claiming* special national interests.

When the laws of a country violate human rights*, groups like Amnesty International* protest to the government on moral grounds*. But whenever possible, legal arguments are also used – references to the constitution of the country itself and to any relevant international agreements* which its government has signed. But despite the development of legally binding* national and international conventions, millions of people in the world still do not enjoy human rights*.

Notes

bring a complaint – подавать жалобу
break the Convention – нарушать конвенцию
rectify the breach – устранять ошибку, нарушение
refer the matter to – обращаться с вопросом к
claiming – заявляя
violate human rights – нарушать права человека
Amnesty International – Международная амнистия
on moral grounds – на основе нравственных (моральных) принципов
relevant international agreement – соответствующие международные соглашения
legally binding – обязательные (согласно закону), имеющие обязательную силу
enjoy human rights – пользоваться правами человека

THE EUROPEAN CONVENTION ON HUMAN RIGHTS (B)

The rights included in the European Convention on Human Rights include the right to life*, the right to liberty* and security of person*, the right not to be subjected to inhuman or degrading treatment*, not to be required to perform forced or compulsory labour, the right to a fair hearing*, to respect for private life, to freedom of thought, conscience and religion*, to freedom of expression and assembly and free elections. These, and the other provisions of the ECHR are called Articles.

The parties to the Convention are Austria, Belgium, Cyprus, Denmark, France, the Federal Republic of Germany, Greece, Ireland, Italy, Luxemburg, Malta, the Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, Turkey and the United Kingdom, Liechtenstein is a member of the Council of Europe but not a party to the Convention.

The Treaty provides* for individual states to bring a complaint* against a member state for breach of the terms* of the Convention. Article 25 also allows for complaints to be received from individuals but only if the country against which the complaint is being made has recognised the jurisdiction of the individual to do so. It was not until 1966 that the United Kingdom government ratified the individual right to petition but only on a five-yearly renewable basis. Individuals must comply with the local remedies rule under Article 26 which requires that all domestic remedies of the state's legal system first be exhausted* and that a petition be brought within six months from the date on which the final national decision was taken.

Notes

the right to life – право на жизнь
the right to liberty and security of person – право на свободу и личную неприкосновенность
be subjected to inhuman or degrading treatment – подвергаться бесчеловечному или унижающему достоинство обращению
the right to a fair hearing – право на справедливое разбирательство
freedom of thought, conscience and religion – право на свободу мысли, совести и религии
provide – обеспечивать, предоставлять
bring a complain – подавать жалобу
breach of the terms – нарушение условий, положений
remedies – средства служебной защиты
be exhausted – *зд.* быть использованным, исчерпанным

THE EUROPEAN COURT OF HUMAN RIGHTS

The European Court of Human Rights* was established by the European Convention for the Protection of Human Rights and Fundamental Freedoms* and was set up in Strasbourg in 1959. The Convention, which was drawn up by the Council of Europe in 1950, was inspired by the United Nations Universal Declaration of Human Rights* of 1948 and protects many essential rights as the right to life, freedom from torture and slavery*, freedom of thought, conscience and religion*, the right to marry and found a family*, freedom of peaceful assembly and association*, and the right to a fair trial*. Only states which are parties to the Convention and the European Commission of Human Rights have the right to bring a case before the Court. Some states have incorporated the Convention into domestic law, but Britain has not, so that it is not directly inforceable as British law.

This is a case referred by Mr.Tyrer, a British citizen, to the European Commission of Human Rights in 1978.

The applicant claimed* before the Commission that the facts of his case constituted a breach* of Article 3 of the Convention which provides: "No one shall be subjected to torture or to inhuman or degrading treatment or punishment"*.

He alleged* that there had been torture or inhuman or degrading treatment or punishment, or any combination thereof.

In its report, the Commission expressed the opinion that judicial corporal punishment, being degrading, constituted a breach of Article 3 and that, consequently, its infliction* on the applicant was in violation of that provision.

The case was then referred to the European Court of Human Rights.

Notes

the European Court of Human Rights – Европейский суд по правам человека

the European Convention for the Protection of Human Rights and Fundamental Freedoms – Европейская конвенция по защите основных прав и свобод человека

United Nations Universal Declaration of Human Rights – Всеобщая декларация прав человека ООН

freedom from torture and slavery – *право не подвергаться пыткам* и порабощению

freedom of thought, conscience and religion – право на свободу мысли, совести и религии

the right to marry and found a family – право на вступление в брак и право основания семьи

freedom of peaceful assembly and association – право на мирные собрания и ассоциации
right to a fair trial – право на справедливое судебное разбирательство
claim – заявлять
breach – нарушение
allege – заявлять, утверждать
corporal punishment – телесное наказание
infliction – нанесение, причинение

Ответьте на вопросы.

1. Name the earliest Bill of rights.
2. What is the role of an international treaty in enforcing the rights of citizen?
3. When did the European Convention on Human Rights come into force?
4. What right does the European Convention give a person charged with a crime?
5. Why is it important to list in a law certain basic rights of citizens?
6. Why do supporters of legislature sovereignty object to this way of enforcing rights?
7. When was the European Convention on Human Rights first adopted?
8. How can one refer a matter to the European Court of Human Rights?
9. How does Amnesty International protest to the government?
10. What basic human rights are included in the European Convention on Human Rights?
11. Who are the parties to the Convention?
12. What does Article 25 allow?
13. What does Article 26 require?
14. When was the European Court of Human Rights established?
15. Where was the European Court set up?
16. What essential rights are protected by the Convention?
17. Which states have the right to bring a case before the Court?

Unit Eleven

ARBITRATION

Arbitration*, reference of a dispute to* an impartial person* or persons, called arbitrators* for a decision or award* based on evidence and arguments presented by the disputants. The parties involved usually agree to resort to arbitration* in lieu of* court proceedings to resolve an existing dispute or any grievance* that may arise between them. Arbitration may sometimes be compelled* by law, particularly in connection with labor disputes involving public employees or employees of private companies invested with a public interest, such as utilities* or railroads.

Most arbitration in the United States has involved labor or commercial disputes. In recent years, however, other uses of arbitration have gained acceptance*, such as arbitration of medical malpractice claims* . As worldwide trade and investment have increased, international commercial arbitration has become important both in planning international transactions and in resolving disputes when they arise.

Labor arbitration is concerned largely with disputes between employers and employees over interpretation or application of the terms of collective bargaining agreements*, and occasionally with new contract terms. Commercial arbitration deals with disputes among private parties regarding contracts to produce, buy, sell, lease, or distribute goods, or to perform a business service.

It was formerly thought that so-called public law disputes, such as those arising under antitrust, securities, or patent laws, could not be arbitrated. Since 1982, however, disputes concerning validity* or infringement* of a U.S. patent are arbitrable by statute. The U.S.Supreme Court has approved enforcement of agreement to arbitrate cases involving claims under the securities laws, and in international transactions under the antitrust laws as well.

Notes

arbitration – арбитраж
reference of a dispute to – передача спора кому-л.
impartial person – беспристрастное лицо
arbitrator – арбитр
award – арбитражное решение
resort to arbitration – прибегнуть к арбитражу
in lieu of – вместо
grievance – жалоба
be compelled – быть принужденным
utilities – коммунальные услуги

have gained acceptance – *зд.* стали использоваться
medical malpractice claims – иски по преступной небрежности врача
collective bargaining agreements – коллективный договор с работодателями
validity – юридическая сила
infringement – нарушение (закона)

THE ARBITRATION RULES OF THE UN COMMISION ON INTERNATIONAL TRADE LAW

The development of harmonious international economic relations is a very complicated matter. In this context, arbitration plays a meaningful part in settling various disputes among countries with different legal systems. So, the UN General Assembly adopted the Arbitration Rules of the UN Commission on International Trade Law in 1976.

This document governs the arbitration between the parties which have agreed in writing to act so. In practical terms, the relevant cases are examined by the arbitral tribunal .

Any party initiating recourse* shall give to the other party a notice of arbitration, the names and addresses of the parties, a reference to the contract in question, the general nature of the claim and some other provisions. In addition, this document contains a proposal as to the number of arbitrators if the parties have not previously agreed on the issue.

As to the personal composition of the arbitral tribunal the names and addresses of such judges must be sent in writing to the other party. If three arbitrators are to be appointed, each party shall appoint one arbitrator. Then those two persons will choose the third member of the arbitral tribunal.

If a party has doubts about the arbitrator's impartiality or independence, it may challenge* him. When an arbitrator has been challenged by a party, the other one may agree to it. If a party does not agree to the challenge, the decision will be made by the competent body which is chosen by both parties. If this body sustains* the challenge, another arbitrator shall be appointed or chosen in accordance with the procedure which is provided for in articles 6 and 9 of these Rules.

These are some fundamental provisions regulating the process of arbitration within the United Nations system.

Notes

initiate recourse – выступить с обращением к арбитражу
challenge *smb* – *давать отвод кому-л.*
sustain – поддерживать

MEDIATION

Mediation* is a process in which a third party (the mediator*) seeks to assist two or more parties involved in a dispute* to reach a voluntary, negotiated resolution of their differences*, usually embodied in a formal written agreement*. Mediation differs from adjudication* and arbitration in that the mediator, unlike a judge or arbitrator, has no authority to impose a solution on* the parties. Mediators seek to have parties to a dispute focus on their interests in resolving their differences rather than their declared positions. Successful mediations result in "win/win" solutions rather than "win/lose" outcomes produced by third party decision-makers* such as judges and arbitrators. Advocates of mediation* believe that it is not only more cost effective* than other forms of dispute resolution, but that mediated solutions are superior since they are crafted* by the disputing parties themselves.

The relative success of mediation in resolving certain types of disputes in the United States, the United Kingdom, Australia, New Zealand, Argentina, China and other countries can be attributed to* a number of factors, the most important of which are probably: dissatisfaction with other available forms of dispute resolution (due to the unpredictability of outcomes, the high cost of litigation or arbitration, and the length of time needed to obtain a final decision), and the existance of a legal framework* supportive of the mediation process.

It is our belief that for mediation to be successfully applied in Russia and Ukraine on a large scale, in particular with respect to commercial and investment disputes, the parties to such disputes must not only believe that mediation has the potential to yield better solutions* to their disputes than other processes, they also must be confident* that if they fail to achieve a successful outcome through mediation, they will not suffer any significant adverse consequences* solely as a result of attempting the mediation* (other than lost time and expenses incurred*).

Notes

mediation – посредничество
mediator – *посредник, примиритель*
involved in a dispute – вовлеченный в конфликт
reach a voluntary, negotiated resolution of their differences – достичь добровольного обсужденного двумя сторонами решения своих разногласий
embodied in a formal written agreement – представленного в виде официального письменного соглашения
adjudication – судебный приговор, решение
impose a solution on – налагать решение

third party decision-makers – принимающая решение третья сторона
advocates of mediation – защитники, сторонники посредничества
cost effective – выгодно, более дешево (финансово)
crafted – умело созданный, сделанный
can be attributed to – может быть отнесен за счет чего-л.
legal framework – юридические рамки, структура
yield better solutions – выработать, создать лучшие решения
be confident – быть уверенным
adverse consequences – неблагоприятные последствия
as a result of attempting the mediation – как результат факта обращения к посредничеству
expenses incurred – понесенные расходы

THE ARGENTINE AND ALTERNATIVE MEDIATION MODELS

In October 1995, Argentina, a civil law country adopted a Law on Mediation and Conciliation*. In part to alleviate* the problems of court overcrowding, Argentina provided for mandatory mediation* of most cases. Once a case is filed* in an Argentine court, it is assigned to* a mediator, and mediation is scheduled to begin within sixty (60) days of the notification* of the respondent* and relevant* third parties. We outline below some features of the law:

Attendance of parties at a mediation is mandatory and parties must be represented by an attorney*. A party that fails to attend is subject to a fine* (Articles 10 and 11)

- Mediation proceedings are confidential. The mediator has discretion* to hold joint or separate sessions with the parties (Article 11)
- If the parties enter into a mediation agreement*, it shall be signed by the mediator, the parties, and their attorneys. Such agreement shall be enforceable* as if it were a court decision. If the parties are unable to settle their dispute, the mediator shall issue a document to the parties allowing them to proceed with the claim in a court (Articles 12 and 14)
- The Ministry of Justice maintains a Register of Mediators consisting of persons who have a law degree and other specialized training (Articles 15 and 16)
- Mediators must recuse* themselves from handling cases* according to principles similar to those requiring judges to decline to hear particular cases*. Parties may request a new mediator to be assigned to the case if they present a valid reason* (Article 18)
- Mediators shall be compensated according to a set schedule established by regulations promulgated* by the Ministry of Justice.

If the mediation is successful, the parties themselves will apportion among* themselves the cost of the mediator; if the mediation does not result in an agreement, the mediator's fee is paid out of a special state fund (Article 21)

The Argentine Law largely assigns to the legal community a monopoly over the conduct of mediation.

Notes

Law on Mediation and Conciliation – Закон о посредничестве и согласительной процедуре
alleviate – облегчать
mandatory mediation – обязательное посредничество
case is filed – дело подано (зарегистрировано)
it is assigned to – оно (дело) передается
notification – уведомление
respondent – ответчик
relevant – соответствующий
attorney – адвокат
is subject to a fine – подвергается штрафу
discretion – свобода выбора
enter into a mediation agreement – заключить посредническое соглашение
enforceable – принудительно осуществленный
recuse – отводить, освобождать
handle a case – вести дело
decline to hear particular cases – отклонять слушание определенных дел
valid reason – веская причина
promulgated – обнародованный
apportion among – соразмерно распределять между

Ответьте на вопросы.

1. What is arbitration?
2. In what case do the parties involved refer to arbitration?
3. When may arbitration be compelled by law?
4. What other uses of arbitration have gained acceptance in the US in recent years?
5. What is labour arbitration largely concerned with?
6. Why does arbitration play a meaningful part in settling various disputes among countries with different legal systems?

7. What does the Arbitration Rules of the UN Commission on International Trade Law govern?
8. Who gives a notice of arbitration?
9. What should a notice of arbitration include?
10. What is the personal composition of the arbitral tribunal?
11. In what case may a party challenge the arbitration?
12. What is mediation?
13. How does mediation differ from adjudication?
14. In what solutions do successful mediations result?
15. What can success of mediation in some counties be attributed to?
16. When did Argentina adopt a Law on Mediation and Conciliation?
17. Why did Argentina provide for mandatory mediation of most cases?
18. Once a case is filed what is the futher procedure?
19. Outline some main features of the Law on Mediation and Conciliation.

UNIT TWELVE

BUSINESS: LEGAL ENVIRONMENT

Realizing the serious damage that could be caused to the country's economy by trade barriers, the US Constitution includes a provision prohibiting the states from creating such obstacles. And trade in the United States flows freely from state to state.

Traditionally, leaders of the US government have been reluctant* to become involved in the private sector, except for the transportation. In general, the federal government has been influenced by the concept of free enterprise. But this attitude began to change during the later part of the 19th century. By the turn of the century, a new middle class had arisen. Its leaders supported governments which actively tried to regulate business practices. Thus, a law regulating the railroads was enacted in 1887 and another law preventing large industries from controlling a single industry was passed in 1890. So, legally speaking, the US government began to influence business quite a long time ago.

During the Great Depression*, it was the government that undertook massive public works programs.

Nowadays, the government regulates and controls private enterprise in many ways, for the purpose of assuring that business serves the best interests of the people as a whole. Regulation is especially necessary in areas where private enterprise is granted a monopoly, such as in telephone or electric service, or in other areas where private enterprise is granted a monopoly. Besides, administration bans* harmful drugs*, or requires standards of quality in food.

In the United States, the governmental intervention into business is aimed at creating fair and favorable conditions for its functioning. Therefore, the respective* laws are worked out and adopted.

Notes

be reluctant – не желать что-л. сделать, упорствовать
the Great Depression – Великая депрессия
ban – запрещать
harmful drugs – наносящие вред лекарства, наркотики
respective – соответствующие

SOME ASPECTS OF FOREIGN INVESTMENT

The economic development in the world considerably depends on foreign investment. And there remain apprehension of both the investors and the governments of those countries which can provide financial means.

The thing is that international law does not embrace all the basic issues linked with investment activities. Therefore, considerable value* must be attached to acts by which a government clarifies and confirms its desire and receptiveness for foreign private investment.

Such a decision may take various forms: government policy announcements at the highest level, legal commitments through investment contracts with individual investors, national investment laws, even constitutions as well as through the increasing number of bilateral investment treaties. The effectiveness of such declarations will depend largely on the confidence of potential investors in the stability of this or that government. Any capital-supplying country wants the host country to adopt laws regulating this type of cooperation. But the government of a host country may exclude from this activity certain sectors of its economy which are specifically reserved for public or domestic operation. It is only natural that investors will ask the government of a host country for advance assurance* against possible risks. However, it is well-known that such risks always exist not only in the sphere of business but also in the political one.

One of the advantages of bilateral investment is that agreements can be adapted to the particular conditions and relations of the contracting countries. As a rule, they are coordinated with actual investment projects taking into account the priorities of a given economy. But all that should be implemented on a sound legal basis.

Notes

considerable value – *зд.* большое значение
advance assurance – предварительное гарантирование безопасности

Ответьте на вопросы.

1. For what reason was a provision prohibiting the states from creating trade barriers included in the US Constitution?
2. Why did the US government begin to influence business at the end of 19th century?
3. How does the government regulate and control private enterprises nowadays?
4. Why is this regulation necessary?
5. Why are foreign investments so important to the world economy?
6. Why must considerable value be attached to acts supplementing international law?
7. How can a government confirm its desire for foreign private investment? Give examples.
8. Why is advanced assurance against possible risks so important?

UNIT THIRTEEN

PRIVATE REGULATION OF AFFAIRS: OBLIGATIONS ASSUMED BY PRIVATE AGREEMENTS

"Contracts" are those voluntary agreements between persons that a court will enforce. Some such agreements are written as mutual promises*. Almost all such agreements look to* a future date or time for performance* of the mutual promises.

In one sense, "contracts" are legal obligations imposed* not by the government but by the persons entering the agreement. Contract law enforces a number of agreements almost as wide as the human imagination, especially in the field of commerce* (sale of goods and services). Contracts therefore represent the private and consensual, not governmental, ordering of life*.

Yet courts will not consider all promises and agreements to be "contracts" that laws will recognize and enforce. Courts use many concepts to define which agreements and promises are enforceable by courts as "contracts", but the two most traditional prerequisites* are these; (i) a requirement of an actual agreement or mutual exchange of promises*, and (ii) a requirement that the promises exchanged have value. The controlled growth of contract law has occurred as courts have sometimes insisted upon these principles, yet sometimes relaxed* them. Private parties order their affairs with agreement; courts set the outer boundary marking those agreements that will not be legally enforced as contracts. And, as we shall see, sometimes the law deems* interactions to be contracts even when the persons involved made no actual promises to each other.

Notes

mutual promises – взаимные обещания
look to – *зд.* предусматривать
time for performance – время выполнений
impose – накладывать
commerce – торговля
ordering of life – порядок жизни
prerequisites – предпосылки, условия
mutual exchange of promises – взаимный обмен обещаниями
relax – отпускать, ослаблять
deem – признавать, допускать

WHICH AGREEMENTS ARE LEGALLY BINDING?

'Agreement ought to be kept'*. This saying forms one of the foundations of international law. Many civil law systems hold that if an agreement is

serious, definite and meant to be legally binding it is legally enforceable. Common law systems, on the other hand, generally require something more. Their point of view is derived* from the model of business dealing. Bargains, in which each party stands to gain* something from the agreement, can be enforced, just because each party stands to gain from them. And an agreement can be enforced by a party who stands to lose if it isn't enforced, because it has relied on it. But a promise to do someone a favour or to make a gift, however seriously meant, cannot be enforced, unless the promise is made by a written deed, signed and witnessed.

All legal systems, both civil and common law, are uneasy about enforcing promises of gifts. One device* that some civil law systems adopt is to insist that a promise of a gift should be in writing or even that it should be made in front of a notary (an official who specializes in legal documents). This is to make sure that the giver has really thought about the consequences of making the gift. In fact in France, outside-business deals, no agreement can be enforced as a contract unless there is some written evidence of its making.

Written evidence is certainly not a cast-iron test* or a commitment* to being legally bound, because we often make promises in private letters that we do not mean to bind us in law. But to put a promise or agreement in writing is some evidence of serious commitment.

Writing has other advantages. It provides proof of what was agreed and helps to avoid disputes about whether there has really been an agreement. International treaties are in practice always made in writing and signed by the parties.

Notes

agreements ought to be kept – договоры должны выполняться
be derived from – проистекать, происходить
gain – приобретать, выигрывать
device – инструмент
cast-iron test – *эд.* надежное прочное свидетельство (доказательство)
commitment – клятва, обещание

CONTRACTS (U.K.) (A)

England is a common law jurisdiction, and the legal principles applicable to contracts with limited exception are derived from* common laws. The term "common law" refers to the decision of judges made in particular cases over the centuries which create binding precedents*; consequently there is no code or statute which sets out all the principles relating to contract law.

Perhaps for this reason and in contrast to a number of other legal systems, English law is not paternalistic* in its character and gives individuals and companies the maximum freedom of choice so that they can conclude commercial agreement on whatever terms they wish, subject only to* very limited exceptions.

This means that should any dispute arise between the parties to an agreement, the English courts will seek to apply the intention of those parties as evidenced by the provisions contained in that agreement, and it is not open to the parties to claim that supervening* or unforeseeable events justify their release from the obligations they have undertaken in the agreement. There is no protection against "force majeure"* or "commercial impracticability"*, other than the limited doctrine of frustration*.

Furthermore, an English court will not seek to impose its own notions of "fairness" or "reasonableness" on the terms of the agreement, nor will it restrict a party who has performed, or wishes to perform, its side of the agreement in good faith from enforcing its clear contractual rights on the grounds that this would in some way be "unjust". The court has a right to impose a test of reasonableness on unfair contract terms (such as exemption clauses*) only in limited circumstances, such as consumer contracts on standard terms and conditions.

For example, in a share purchase agreement*, the vendor* of the shares will not later be released from liability* for a breach of a warranty* contained in that agreement on the grounds that the particular matter giving rise to such liability could not have been discovered by the vendor, unless the agreement specifically provides for this.

Therefore, parties to an English law agreement can be certain as to precisely what rights and obligations each has secured and undertaken.

Notes

are derived from – проистекают, происходят
binding precedents – обязательные прецеденты
paternalistic – *зд.* опекающий
subject to – подверженный, подчиняющийся
supervening – происходящий, проистекающий
force majeure – форс-мажор; непреодолимые обстоятельства
commercial impracticability – экономически недееспособный, коммерческая невыполнимость
frustration – прекращение обязательства вследствие невозможности его выполнения
exemption clauses – положения контракта, освобождающие от чего-л.

share purchase agreement – контракт о покупке акций
vendor – продавец
release from liability – освобождать от обязательств
warranty – условие, оговорка (в контракте)

THE NEED FOR COMPREHENSIVE CONTRACT

There can sometimes be resistance to having a comprehensive contract on the grounds* that it is unnecessary or too time-consuming* or that the negotiation of it creates bad feeling between the parties.

However, the reasons for having a properly drafted contract* include the following:

1. In changed economic circumstances, a company may be desperate* to escape from a contract it made which is proving unprofitable – it may instruct a lawyer to review the contract to find ambiguities* or "holes" in the contract to enable it to renege* legally on its moral obligations;

2. A change in management of the other side may mean that a new manager is in charge of the relationship – and he may be less inclined to deal with us on a personal basis – he may become more legalistic* and start to look closely at the words of the contract in order to exploit ambiguities, etc;

3. On a liquidation and winding-up* of the company, a liquidator has a fiduciary duty* to the creditors of the company with which we concluded a contract to make as large a recovery for them as possible. Therefore, he has a positive obligation to exploit ambiguities in the contract made with our client to reduce the insolvent* company's exposure to us and to sue us for any technical breaches of the contract* even if we never anticipated that our actions would be regarded as actionable at the time of signing, regardless of any personal relationships, understanding between the businessmen, which are now completely irrelevant* following the appointment of the liquidator, etc.

4. Businessmen by nature are not usually as cautious as lawyers, and may be distracted by the effort of putting together the basis framework of the deal*, and caught up in the general optimism which exists at the time of signing, and so may not have given much thought to the problems which may arise

Notes

on the grounds – на основании
time-consuming – поглощающий время
draft a contract – составлять контракт
be desperate – отчаянно желать
ambiguities – двусмысленности
renege – отрекаться, изменять своему слову

legalistic – *эд.* более приверженный закону
winding up of the company – ликвидация компании
fiduciary duty – обязанности доверенного лица
insolvent – несостоятельный
breaches of the contract – нарушения контракта
irrelevant – не относящийся к делу
deal – сделка

CONTRACTS (THE UK) (B)

As the business world becomes ever more complex and interactional* and transactions* become larger and more complicated the role of the lawyer in preparing comprehensive and carefully drafted contract* clearly setting out the rights and obligations* of the parties becomes all the more important. English law is well suited to the governing law of such contracts because of its relative flexibility and freedom.

In the final analysis, all we may have to prove our rights is that piece of paper with the contract printed on it – for this reason, it is of great importance that the contract:

1. Accurately and clearly reflects what is the actual agreement between the parties, and explicitly* sets out all rights, benefits and protections which we believe we are given by the other side, rather than just leaving them to a mutual "understanding" or mutual misunderstanding as it may later be shown to be;

2. provides a mechanism (e.g. arbitration, force majeure*, etc.) for dealing with any unlikely but foreseeable contingencies* which may arise;

3. does not avoid any unpleasant issues which the parties may not have liked to talk about (e.g. what happens if one party goes bankrupt?);

4. deal with all technical issues (e.g. consideration in contracts for common law jurisdiction (e.g. England, USA) choice of law article if the parties are of different nationalities, suspension article* if government approval is required etc);

5. is reviewed by lawyers from the jurisdiction of all applicable laws* for comment on any anti-trust issues*, enforceability of warranty exclusion article*, government approvals required, other formalities, etc;

6. does not contain provisions which are vague or imprecise*, or are of such wide application as to become meaningless or which contains internal inconsistencies.

Clearly in certain situations in most contracts, it is not going to be possible to set out every last detail, and consequently it is incuritable* that certain allegations are going to be expressed accurately to some kind of "reasonableness" or "materiality" test.

Notes

interactional – взаимодействующий
transactions – сделки
comprehensive and carefuly drafted contracts – исчерпывающие и тщательно подготовленные контракты
rights and obligations – права и обязанности
explicitly – точно, открыто
force majeure – форс-мажор; непреодолимые обстоятельства
contingencies – непредвиденные обстоятельства, случайности
suspension article – статья о приостановлении действия
applicable laws – применяемые законы
anti-trust issues – антитрастовые законы
warranty exclusion article – статья об исключении договорных гарантий
vague or imprecise – туманные и неточные
incuritable – неисправимый

Ответьте на вопросы.

1. What are contracts?
2. Are contracts legal obligations?
3. What are the two most traditional prerequisites necessary to define which agreements and promises are enforceable by court as "Contracts"?
4. Which agreements are legally enforceable?
5. What does Common law system generally require to make a contact enforceable?
6. How does English law differ from other legal systems in giving individuals and companies freedom of choice?
7. Will an English court seek to impose its own notions of 'fairness' or 'reasonableness' on the terms of the contract? If not, why?
8. Name the reasons for having a properly drafted contract. Give your comments.
9. Why does the role of the lawyer in preparing contracts become more important?
10. What should be clearly observed in making a contract?
11. Give your comments on every point.

UNIT FOURTEEN

*THE LAW OF TORTS**

Tort*: wrongful act* that causes injury* to a person or property and for which the law allows a claim under civil law, the law in the United States that governs the relationships between individuals* – for example marriage, contracts, or injuries. The civil law concerning torts attempts to remedy injuries* suffered* by individuals or corporations by forcing* the party who caused the harm* to compensate* the victim*. In contrast, criminal law governs the relationship between the government (state) and the individual and punishes* a person who acts in a way considered harmful to society* as a whole.

Both torts and contracts are governed by civil law, but the duty that exists between the person who commits a tort* and the person injured does not result from* an agreement or contract. In other words, a person does not have to form a contract* with another person in order to prevent that person from assaulting* him or her. Instead, society requires that individuals act in certain ways and requires them to provide compensation* if they injure someone because they failed to act in the required manner*.

In the 1990s lawsuits* based on tort made up nearly half of all lawsuits in the United States. Over 1.5 million tort claims are filed every year in the United States. The majority of tort cases involve automobile accidents*, medical malpractice*, or defective products*.

Notes

law of torts – деликтное право
tort – гражданское правонарушение, деликт, проступок
wrongful act – проступок, правонарушение, деликтный вред
cause injury – причинять вред, наносить ущерб, телесное повреждение
govern the relationships between individuals – регулировать отношения между частными лицами
remedy injuries – возмещение ущерба (вреда)
suffer injuries – пострадать от ущерба, вреда, телесного повреждения
force – принуждать
cause the harm – наносить вред
compensate – компенсировать, возмещать
victim – жертва
punish – наказывать

who acts in a way considered harmful to society – кто действует таким образом, который считается наносящим вред обществу
commit a tort – совершать правонарушение
result from – проистекать из
form a contract – заключить контракт
assault – нападать, словесно оскорблять, угрожать физическим насилием
provide compensation – обеспечивать компенсацию
in the required manner – требуемым образом
lawsuit – судебный иск
automobile accidents – автокатастрофы
medical malpractice – преступная небрежность врача, профессиональная некомпетентность врача
defective products – некачественные товары

CONSTITUTIONAL LAW

Constitutional law, the law of the British constitution, is often said to be unwritten in the sense that there is no single document in Britain called 'The Constitution'. However, every British protectorate and colony has one, and so does nearly every country in the world. The reasons for this state of affairs are historical. There has been no fresh start after a revolution or other landmark in our history, unlike in the United States or Malaysia. Nevertheless, there are many documents from which the British constitutional law can be collected. There are Acts of Parliament, like the Bill of Rights 1689, the Act of Settlement 1701, the Act of Union with Scotland 1707 and the European Communities Act of 1972, all of which contain major rules of constitutional law. Rules of more detailed importance are to be found in such statutes as the Representation of the People Acts 1983 and 1985, the Peerage Act 1963, the Parliament Acts of 1911 and 1949 and the Local Government Act 1988,, among many others. It seems that every year statutes are made which add to the constitutional law.

Further to this the law is found in common law rules such as the fundamental rule which pronounces that Parliament is sovereign, a rule now affected by the European Communities Act 1972. Furthermore there is a collection of conventions which applies to the constitution and there are the residual powers* within the royal prerogative*. Finally there exists the law and custom of Parliament itself, concerning its functions, procedures, privileges and immunities*. This, then, is the subject matter of constitutional law.

Notes

the residual powers – оставшиеся полномочия
the royal prerogative – право прерогативы короны
immunity – неприкосновенность, иммунитет

ADMINISTRATIVE LAW

Administrative law is concerned with public authorities*. It comprises the law relating to the formation, powers and duties of such authorities and the procedures involved* when they are formed or where their powers are exercised*, or duties fulfilled. It is also concerned with the relationships between such public authorities, between the authorities and their employers and between them and the public at large*.

Administrative law can be seen as a network of controls over the use of public powers, but it also provides the means by which the workload* of public authorities can be successfully achieved. It provides the means for getting things done.

The public authorities in question* extend from the Crown through the nationalised industries, the Commission for Racial Equality, ACAS (the Advisory, Conciliation* and Arbitrian Service), the BBC and Independent Broadcasting. Authority, local government, and many others, including the maze* of administrative tribunals set up, among other things, to settle disputes about the use of public power.

Notes

public authorities – общественные власти
the procedures involved – задействованные процедуры
powers are exercised – полномочия осуществляются
at large – в целом
workload – объем работ
in question – *зд.* о которых идет речь, обсуждаемые
Conciliation – разрешительная комиссия
the maze – *зд.* сложная система

COPYRIGHT LAW

Copyright law protects original works of authorship* which are written down or recorded. The U.S. International Trade Commission* has defined "copyright" as "a form of protection provided by a national government to authors of original works of authorship, including literary*, dramatic, musical, artistic, and certain other intellectual works". As with other types of policies for intellectual property, the fundamental policy of copyright law* is to provide protection for works so that they can be distributed in the

public domain. In the United States, the copyright protection lasts for the life of the author, plus fifty years. Copyright protection applies to*: literary works, plays, computer programs, and other kinds of works of authorship. The owner of a copyright may place a copyright symbol on the work as a warning* to others that the work is protected. The symbol consists of the letter "C" with a circle around it*; ©. Following* the creation of the Copyright Act of 1976, most copyright law in the United States is governed by federal statute*. If copyright is violated, the owner of the right may seek damages for the copyright infringement*.

Example: Mrs. Author writes an original play and composes original music for the play. She applies for two copyrights*. One for her play, and one for the music that she created for her play. She now has two copyrighted works which are protected..

Notes

original works of authorship – подлинные авторские работы
the U.S. International Trade Commission – Международная торговая комиссия США
literary works – литературные произведения
the fundamental policy of copyright law – основная задача (цель) закона об авторском праве
copyright protection applies to – защита авторского права распространяется на
warning – предупреждение
with a circle around it – обведенный кружком
following (smth) – вслед (за)
federal statute – федеральный закон
seek damages for the copyright infringement – требовать возмещение убытков за нарушение авторского права
apply for copyright – обращаться за получением авторского права

SOME ASPECTS OF LABOUR LAW

The existing labour codes embrace* conditions of work, individual employment relations, wages and remuneration* as well as health, safety and welfare. The conditions of work include such vital elements as working hours, vacations and labour safety*.

Besides, the activities and rights of trade unions are also regulated by labour law. The latter also covers the issues of making, modelling* and terminating individual employment relations. Historically speaking, this kind of law used to be described as the law of master and servant. But

nowadays there are lawyers who can defend an employee from any abuse* on the part of his or her boss.

It should be noted that unlike common-law countries, the civil-law ones attach more importance to the individual contract of employment.

Generally speaking, modern managers know well enough that due to* the technological progress such matters as occupational health and accident prevention have become the categories of labour law.

Therefore, legal regulations are no longer limited to a few especially risky occupations, for example, mining, but they cover radiation, dangerous machinery, vibration and some other phenomena.

As to the substantive law on wages and remuneration, it incorporates such elements as forms and methods of payment, the protection of wages against unlawful deductions* and other abuses. Thus, there are legal requirements concerning the forms of wages and methods of wage payment. In their turn, these are linked with the proper notification of wage conditions and other related matters.

Notes

embrace – *зд.* охватывать
remuneration – вознаграждение
labour safety – безопасность труда
model – *зд.* строить, организовывать
abuse – злоупотребление
due to – благодаря
unlawful deductions – незаконные отчисления

Ответьте на вопросы.

1. What is tort?
2. What is a lawsuit based on under civil law?
3. How does the civil law attempt to remedy injuries suffered by individuals or corporation?
4. How does criminal law govern the relationship between the state and individual?
5. Does a person have to form a contract with another person in order to prevent that person from assaulting him or her?
6. What does society require from individuals?
7. What wrongful acts do the majority of tort cases involve in the US?
8. From which documents can the British constitutional law be collected?
9. Can constitutional law be found in common law rules?
10. Is there a collection of conventions applied to constitutions?

11. What is administrative law concerned with?
12. Can administrative law be seen as a network of controls over the use of public powers? Prove it.
13. What does copyright protect?
14. What is the definition of copyright given by the US International Trade Commission?
15. What is the fundamental policy of copyright law?
16. How long does the copyright protection last in the US?
17. What does a copyright symbol consist of?
18. May the owner of the right seek damages for the copyright infringement?
19. Can an author apply for two copyrights for one work?
20. What does the existing labour code embrace?
21. How are the activities and rights of trade unions regulated by labour law?
22. How did labour law use to be described, historically speaking?
23. What aspects of labour have become the categories of labour law?
24. Are there legal requirements concerning the forms of wages and methods of wage payment?

UNIT FIFTEEN

COMBATING UNFAIR COMPETITION

In Russia, unfair competition is prohibited by law. The very notion of unfair competition includes the following components: spreading false, inaccurate or distorted information* capable of damaging the financial interests or reputation of another economic structure.

It is also against the law to mislead* consumers about the nature, methods and place of production, the consumer properties and quality of a commodity*. Besides, the relevant law* covers such vital issues as the protection of commercial secrets and intellectual property. So, several years ago there was set up a federal antimonopoly body.

While promoting the development of market relations, the federal antimonopoly body takes steps against unfair competition. It can give orders, obligatory for execution*, to transactor units* on their termination of breaches* of the antimonopoly legislation.

The federal antimonopoly body gets a lot of support from its territorial agencies which have a direct access* to the executive and governmental bodies of the subjects of the Russian Federation. These bodies are able to respond promptly and efficiently to any actions leading to unfair competition. But it is the federal anti-monopoly body that submits to the government proposals for improving antimonopoly legislation and its practical application. This body also presents judgments on draft laws and other regulations.

Combating unfair competition is an extremely complicated kind of legal activities. Therefore, Russia needs a new breed of lawyers who could analize not only the legal aspects of business but also its economic and financial fundamentals. These experts are supposed to work out such laws that would help Russia's economy develop successfully.

Notes

distorted information – искаженная информация
mislead – вводить в заблуждение
quality of a commodity – качество товара
relevant law – соответствующий (имеющий отношение закон)
execution – выполнение, исполнение
transactor units – подразделения, совершающие сделки
breach – нарушение
direct access – прямой выход

MONOPOLIES, NATURAL MONOPOLIES AND COMPANIES HAVING DOMINANT POSITION (KAZAKHSTAN)

In accordance with anti-monopoly legislation, a company is considered to be a monopoly if its activities restrict or prevent competition and if its share in a certain goods or services market exceeds 35% of the market, or a higher annual share as established by the AMA*. A company whose market share exceeds the said limits, is considered as having a dominant position. The AMA independently determines whether a company has a dominant position and maintains a register of such companies. It should, however, be mentioned that a company cannot be found to be in a dominant position for the first two years of its operation if it is either producing products which are not analogous to any products currently produced or sold in Kazakhstan or if it is producing goods with new technology.

Once entered in the AMA's register, a company becomes subject to the AMA's regulations.

In addition, Kazakhstan's legislation establishes a list of industries which are considered natural monopolies. All companies that have a dominant position in the market and which operate in the following industries are declared to be natural monopolies:

- oil and oil products transport via* main pipelines;
- natural gas transport via main pipe lines;
- electrical and heat energy transmission;
- railroad transport;
- air navigation, airport, and harbor service;
- local telephone network service; and
- postal service.

Natural monopolies are also registered with the AMA, but are subject to stricter anti-monopoly legislation control. In order to comply with* the AMA's instructions, a number of obligations are imposed on natural monopolies on issues including pricing; conduct of annual audit reports and publication of the results of such audits; and the provision of services to all customers on an equal basis. In addition, the legislation imposes a number of limitations and restrictions on the activities of natural monopolies.

Notes

the AMA = Anti-Monopoly Agency – Антимонопольный комитет
via – через, посредством
comply with – сообразовываться, подчиняться

ANTI-MONOPOLY AGENCY AND ITS COMPETENCE

The recently adopted Government Resolution "On the Issues of the Agency for Regulation of Natural Monopolies and Protection of

Competition" describes the AMA's primary functions, as well as its rights and powers, in detail. In accordance with that Resolution, the primary functions of the AMA include:

- determining which companies may operate as a monopoly or as having a dominant position and maintaining a registry* of such companies;
- regulating the prices and tariffs for services provided by natural monopolies;
- overseeing* general compliance with anti-monopoly legislation;
- inspecting activities of both legal entities* and individuals with respect to issues within its competence; and
- developing proposals for the reorganization of natural monopolies.

In pursuing such functions, the AMA has the following rights: to establish price limitations for goods and services of natural monopolies; to make determinations as to whether or not a company has a dominant position in the market; to investigate and consider cases for breach of anti-monopoly legislation.

Notes

registry – реестр, регистрация
oversee – надзирать
legal entities – правовые учреждения

Ответьте на вопросы.

1. What is the notion of unfair competition?
2. What steps are taken against unfair competition?
3. What are the functions of the federal antimonopoly body?
4. Why is combating unfair competition a complicated kind of legal activity?
5. In what cases is a company considered to be a monopoly?
6. What does having a dominant position mean?
7. Who determines whether a company has a dominant position?
8. What is a natural monopoly?
9. What companies are declared to be natural monopolies? Give examples.
10. How do you comply with the AMA's instructions?
11. What are AMA's primary functions? Name some.
12. What right does the AMA have in pursuing its functions?

Unit Sixteen

WHAT COUNTS AS PROPERTY?

First, what things should count as property*? Property must have some value*; and things have value only if they can be controlled; and the control, for which the legal term is possession*, can be physical or legal. Can one own fish in the sea? Not if they are swimming about freely. But if I am fishing in a place where I have the right to fish and have caught fish in my net I have them in my control and so I can own them.

Of physical things, the most basic sorts of property are land, including the buildings on it, and goods such as clothes, furniture and vehicles. The person who occupies land may be able to defend it with his strong right arm or his gun. The same is true of physical goods. But the value of land and goods increases if they are legally secure*.

Other sorts of property that can be physically controlled have little or no value apart from what law gives it. Take money. The metal in the coins or the paper in the banknotes is worth hardly anything. Money is worth what it claims to be worth only because the law gives it that worth. Law forces those who are owed money to accept the coins or notes in payment, and gives the state a monopoly (an exclusive right) of issuing money.

Notes

property – собственность, право собственности
value – цена, ценность
possession – владение
be legally secure – гарантироваться (защищаться) законом

TRUST

Trust*, in law, relationship* between two or more parties in which one party holds the legal title to property*, subject to an obligation imposed by a court, or expressly* undertaken to keep or use the property for the benefit* of the other party or parties. The party who creates a trust is known as the settlor*.

Trusts may be classified as express*, resulting*, or constructive*. An express trust is one that is created by the settlor's conveyance of property* by will or deed* to a party, with the intention that the property is to be held in trust for others. A resulting trust is one that is created when the intention is inferred* or presumed from the terms of the disposition* of the property or from the circumstances accompanying such disposition. Constructive trust is one resulting from a conveyance of property in which no intention to create a trust can be inferred but in which a court will compel* the person having legal title to hold it for the benefit of another.

Notes

trust – доверительная собственность
relationship – отношения
hold the legal title to property – иметь титры по общему праву на предмет траста
expressly – явно выраженный
for the benefit – на благо, пользу, выгоду
settlor – учредитель доверительной собственности
express trust – срочный активный фонд
resulting trust – доверительная в силу правовой презумпции
constructive trust – доверительная собственность в силу закона
conveyance of property – передача собственности
by deed – по документу
infer – означать, подразумевать
disposition – распределение
compel – заставлять, вынуждать

Ответьте на вопросы.

1. When do things have value?
2. What are the most basic sort of property?
3. Under what condition does the value of land and goods increase?
4. Give example of property having little or no value apart from what law gives it.
5. What is a trust?
6. Who is called the settler?
7. How may trusts be classified?
8. Characterize each kind of trust.

Unit Seventeen

WHAT TYPE OF CONDUCT AMOUNTS TO A CRIME

First, then, as to the type of conduct* that is a crime. Legal systems largely agree about this:

- conduct that by causing or threatening harm* creates insecurity;
- conduct that causes offence*, and
- conduct that undermines* the working of society, its government and economy.

Law make conduct criminal if by causing or threatening harm it creates a sence of insecurity. What counts as harm depends to some extent on what each society thinks is objectionable. But behaviour that strikes at people's lives and bodies, their property or the safety of the whole community is everywhere regarded as harmful.

To begin with people's lives and bodies, all countries make it a crime intentionally to kill another person (murder) or to wound* them. It is also a crime to threaten someone in such a way that they think that they are about to be killed or wounded (assault). Equally or more dusturbing is forcing someone to have sexual intercourse against their will (rape).

We all have an interest in other people not being murdered, wounded or raped not only ourselves and our families. In practice, however, the state and its officials often cannot prosecute the wrongdoer* unless the victim* (for example the woman raped) reports what has happened and gives evidence* against her attacker.

The crimes mentioned are offences against out bodies or persons*. There are also offences against property*. Property is an element of stability in people's lives, whether they are rich or poor. Theft* is in all countries a crime.

Notes

conduct – поведение
cause harm – причинять вред, ущерб
threaten harm – угрожать нанесением вреда, ущерба
cause offence – совершать преступление
undermine – подрывать, наносить вред
wound – ранить
prosecute the wrongdoer – преследовать нарушителя в судебном порядке
victim – жертва
give evidence – давать показания
offences against bodies or persons – преступления против личности
offences against property – преступления против собственности
theft – воровство

CRIME

At the basic level, crime and crime rates* in the U.S. are reported under two general categories. One is "violent crime"* (against individuals) and the other is "property crime". Violent crime includes murder* and manslaughter*, rape*, robbery*, and assault*. Property crimes include burglary*, larceny* and theft*, and motor vehicle theft*.

There is however enormous variation within the U.S. in crime and crime rates – geographically, economically, and socially.

There are figures, and many studies, which show who in the U.S. is most affected by crime. Such "victim studies" indicate differences by race or ethnic group, sex and age. Again, there are great differences, some extreme. Taking murder and manslaughter as an example, it can be seen that black males are much more likely to be murdered than black females, white males, or white females.

First, actual research has focused on a large number of possible causes. Among the most frequently studied are unemployment, poverty, education level and educational opportunity, drug abuse* and drug dealing*, racism, ethnic and cultural attitudes, easy availability of weapons, consumerism and the media, ineffective courts and policing, poor prisons, single-parent families and unwed mothers, youth gangs. Each of these possible causes is the subject of serious debate. There are many scholarly works which try to identify the causes of crime in America, and to determine what must, could, or can be done.

Notes

crime rates – рост преступности
violent crime – преступление против личности, насильственное преступление
property crime – преступление против собственности
murder – тяжкое убийство
manslaughter – простое убийство (убийство, совершенное без злого предумышления)
rape – изнасилование
robbery – грабеж
assault – нападение
burglary – кража со взломом
larceny – хищение
theft – воровство
motor vehicle theft – угон средств передвижения
drug abuse – алкогольная зависимость
drug dealing – наркоторговля

CRIME IN MODERN SOCIETY

Civilized societies have created various systems of defending an individual from violence*. Unfortunately, crime rate* is increasing practically all over the world. So, the police of any country should protect the citizens, their homes and property.

Some crimes, however, are considered more serious than others. For example, in the United States, those, who commit* the crime of treason*, are usually punished by life imprisonment* or death.

Scholars and lawyers have tried to find out the reasons for crime. Some of them say that sometimes a person's greed, jealousy or frustration may lead to committing a crime.

Others believe that many crimes against a particular person are committed by the poor. These people can steal money or goods*, and they are capable of injuring or killing their victims.

But if such offenders* are caught by the police, they still have the right to be defended by a lawyer in court. As a rule, the police and investigators do their best to provide the court with meaningful evidence*.

However, there are cases which only seem to be simple. For instance, sometimes it is pretty hard to deal with a car theft*, especially if the suspect* is young. He usually says that he just wanted to use the car for fun, and then return it to its proper place.

In the United States, anyone accused of a crime* has certain rights that are guaranteed by the Bill of Rights. This document consists of the first ten amendments to the US Constitution. For example, everyone has the right to a fair trial* or he can keep silent without testifying* against himself. Besides, under American law, a person is considered innocent* unless he is proved guilty* in court.

In modern society, every citizen should be aware of the legislation in force as well as of his or her right under the law.

Notes

violence – насилие
crime rate – рост преступности
commit a crime – совершать преступление
crime of treason – измена
life imprisonment – пожизненное заключение
steal money or goods – воровать деньги или товары (вещи)
offender – правонарушитель, преступник
evidence – доказательство
car theft – угон автомобиля
suspect – подозреваемый

be accused of a crime – быть обвиненным в совершении преступления
fair trial – справедливый суд
testify – свидетельствовать
innocent – невиновный
guilty – виновный

WHAT IS CRIMINAL PROCEDURE?

Criminal procedure*, also called the criminal process or the criminal justice system, is the mechanism through which crimes are investigated*, the guilt of criminals adjudicated*, and punishment imposed*. It includes the police, prosecutors*, defense attorneys*, and courts, the practices and procedures observed by them, and legal rules that govern them. In the criminal process an individual is pitted* against the government, with all of its resources and authority, and only through the criminal process can the state's most serious sanctions – imprisonment or even death – be applied.

Criminal law defines what conduct is criminal and prescribes the punishment for criminal conduct*. Criminal procedure makes the criminal law work; the sanctions defined by criminal law are only effective because the criminal process can bring the sanctions to bear on* individuals who violate the law*. At the same time, criminal procedure aims to make sure that criminal sanctions are applied only to those who are guilty, and only through procedures that are recognized as fair. One goal of the criminal process is to punish the guilty, but other goals are to protect the innocent and to ensure that even the guilty are protected from abuse* by the government.

Although we talk about "the" criminal process, different systems are in place in each state and in the federal courts.

Notes

criminal procedure, process – уголовный процесс
investigate a crime – расследовать преступление
adjudicate – выносить судебное решение
impose punishment – налагать наказание
prosecutor – прокурор, обвинитель
defense attorney – адвокат, защитник
is pitted against – *зд.* противостоит
criminal conduct – преступное поведение
bear on – *зд.* накладываются
violate the law – нарушать закон
abuse – злоупотребление

CRIMINAL PROCEDURE

One way of protecting the suspected criminal* is by dividing the stages in criminal procedure between different bodies. One can separate the functions of investigating*, prosecuting*, trying*, deciding guilt*, sentencing* and carrying out the sentence*. Six or seven different bodies can each be given one of these jobs.

For example, the police can be in charge* of investigating the crime; a prosecution service of prosecuting; the judges of presiding over the trial*; a jury of deciding whether to convict*; an appeal court of settling whether the trial was fair; a prison service of carrying out the sentence if the suspect is convicted and sentenced to prison.

The judge who presides over the trial usually sentences the suspect if he is convicted, but even that is not inevitable. Sentencing can be entrusted to a special board. Or a judge can be put in charge of the investigation and a different judge chosen to try the case if the first judge finds there is enough evidence to justify a trial.

All these procedural devices remind us of the separation of powers. The idea is that no one authority (police, prosecution, judge, jury, prison service) should have too much power. State powers should be sliced up*, and the slices should be able to keep a check* on one another. The police will not be able to prosecute unless they can persuade the prosecution service that there is a strong case. The judge will if necessary rule* at the trial that the prosecution has not produced enough evidence*. If the jury think the judge has shown bias* during the trial they will probably acquit the suspect* even though they might otherwise have convicted him. If the suspect is convicted but thinks the procedure has been unfair he can persuade the government to advise the head of state to pardon him or reduce the sentence*.

Notes

suspected criminal – подозреваемый преступник
investigate – расследовать
prosecute – обвинять (в суде)
try – рассматривать дело, судить
decide guilt – выявлять степень виновности
sentence – приговаривать
carry out the sentence – приводить в исполнение приговор
be in charge – отвечать за
preside over a trial – вести судебное заседание
convict – объявлять виновным (в вердикте присяжных)
be sliced up – *зд.* быть разделенными
keep a check – держать под контролем, проверять

rule – постановлять
evidence – свидетельство
bias – пристрастие, необъективность
acquit the suspect – оправдать подозреваемого
reduce the sentence – уменьшить срок наказания

THE JURY

The jury differs from the other bodies concerned with criminal procedure. All the others are branches of the state. They all represent public authority and are paid from public funds. The jury, however, is chosen from and represents private citizens.

In most common law countries* serious crimes are tried by judge and jury. The number of members of the jury varies but twelve is common. The judge explains to the jury the law to be applied*, for instance what amounts to murder. The jury decide whether the suspect* did what he is said to have done (say, shot somebody dead) and, if so, whether in the light of the law set out by the judge, he is guilty of murder*. A jury decides either unanimously* or by a majority, depending on the country where the trial takes place. It gives no reasons for its decision.

Many people think that trial by the jury helps to redress the balance* between the state and the suspect. If a case is tried by jury the state has to persuade* all or the majority of a group of ordinary citizens that the suspect is guilty, not merely one or a few judges. Juries are on the whole fair in deciding the case according to the law explained to them by the judge. But they occasionally acquit* someone, even if they think that he committed the crime*, because they consider that it was unfair to charge him with it*.

Notes

common law countries – страны общего права
the law to be applied – применимый закон
suspect – подозреваемый
be guilty of murder – быть виновным в совершении убийства
unanimously – единогласно
redress the balance – восстановить равновесие
persuade – убеждать
acquit smb – оправдать кого-л.
commit a crime – совершать преступление
charge smb with a crime – обвинить кого-л. в совершении преступления

JURY SERVICE: AN IMPORTANT JOB AND A REWARDING EXPERIENCE

The right to trial by a jury* of our fellow citizens is one of our most important rights and is guaranteed by the Constitution of the United States.

Your job as a juror* is to listen to all the evidence* presented at trial* and to "decide the facts", that is, to decide what really happened. The judge, on the other hand, "decides the law" – that is, makes decisions on legal issues* that come up during the trial. For example, the judge may have to decide whether you and the other jurors may hear certain evidence or whether one lawyer may ask a witness* a certain question. You should not try to decide these legal issues, sometimes you will even be asked to leave the courtroom* while they are being decided. Both your job and that of the judge must be done well if our system of trial by jury is to work. In order to do your job you do not need any special knowledge or ability. It is enough that you keep an open mind, concentrate on the evidence being presented, use your common sense, and be fair and honest. Finally, you should not be influenced by sympathy or prejudice: it is vital that you be impartial* with regard to all people and all ideas.

Many jurors find that it is exciting to learn about this most important system "from the inside", and challenging to deal fairly and thoroughly with the cases they hear. We hope that you, too, find your experience as a juror to be interesting and satisfying.

Notes

jury – присяжные заседатели
trial by a jury – суд с присяжными заседателями
juror – присяжный заседатель
evidence – свидетельское показание
at trial – в суде, на судебном заседании
legal issues – правовые вопросы
witness – свидетель
courtroom – зал судебных заседаний
impartial – беспристрастный

HOW YOU WERE CHOSEN?

Your name was selected at random from voter registration records and placed on a list of potential jurors. Next your answers to the Questionnaire for Jurors were evaluated to make sure that you were eligible for jury service* and were not exempt from service*. To be eligible, you must be over 18 years of age, a citizen of the United States, a resident of the county in which you are to serve as a juror,

able to communicate in the English language and if you have been convicted of a felony*, you must have had your civil rights restored*. People who meet these requirements may be excused from jury service if they have illnesses that would interfere with their ability to do a good job, would suffer great hardship if required to serve, or are unable to serve for some other reason.

You are here because you were found to be eligible for jury duty and were able to serve. You are now part of the "jury pool", the group of people from which trial juries are chosen.

Notes

be eligible for jury service – иметь право (в силу удовлетворения соответствующим установленным требованиям) на работу присяжным заседателем
exempt from – освобождать от
be convicted of a felony – отбывать тюремный срок за совершение уголовного преступления
have civil rights restored – быть восстановленным в гражданских правах

INTERNATIONAL CRIMINAL POLICE ORGANIZATION OR INTERPOL

Intergovernmental body* was established to promote mutual cooperation between police authorities around the world and to develop means of effectively preventing crime.

Founded in Vienna in 1923 and reconstituted in 1946, Interpol, is strictly nonpolitical and is forbidden to undertake any activities* of a religious, racial, or military nature. The majority of countries (177 in 1997) belong to Interpol, and only government-approved police bodies may hold membership. The general assembly meets annually to decide policy and to elect the executive committee, consisting of a president, three vice presidents, and nine delegates, all of different nationalities. The general secretariat, based in Lyons, France, is the permanent administrative headquarters. It coordinates the international activities of member countries, holds a library of international criminal records*, and organizes regular meetings at which delegates can exchange information on police work. Interpol is financed by contributions from member countries; its budget in 1997 was $28 million.

Notes

intergovernmental body – международная организация
undertake any activities – предпринимать какую-л. деятельность
criminal records – досье преступников

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Ответьте на вопросы.

1. What type of conduct is considered to be a crime?
2. What behaviour is regarded as harmful?
3. What do all countries make a crime?
4. How are offences classified?
5. Under what two general categories are crimes reported in the US?
6. What does violent crime include?
7. What does property crime include?
8. Who in the US is most affected by crime?
9. What are possible causes of crimes in the US?
10. Is crime rate increasing all over the world? If yes, why?
11. How is the crime of treason punished in the US?
12. Give different opinions on the reasons for crime.
13. What crimes are committed by the poor?
14. Does everybody have the right to be defended by a lawyer in the court irrespective of the kind of a crime?
15. What does the Bill of Rights guarantee anyone accused of a crime?
16. Through which mechanism are crimes investigated?
17. Who prescribes the punishment for criminal conduct?
18. What is the role of criminal procedure?
19. What makes the sanctions defined by criminal law effective?
20. What are the goals of the criminal process?
21. How are the stages in criminal procedure divided between different bodies?
22. Who is in charge of investigating the crime?
23. Who is in charge of prosecuting?
24. What is the role of the judges?
25. What is the role of a jury?
26. What is the role of an appeal court?
27. Whom can sentencing be entrusted to?
28. How does the separation of power work in the procedural devices?
29. How do the jury differ from other bodies concerned with criminal procedure?
30. How does the number of members of the jury vary?
31. What should the judge explain to the jury?
32. What does a jury decide?
33. Does trial by the jury help to redress the balance between the state and the suspect? If yes, prove it.

34. Who decides the facts?
35. Who decides the law?
36. Do you need any special knowledge or ability to work as a jury?
37. What qualities must a jury possess?
38. Where from are jurors names selected?
39. Who is eligible for jury service?
40. Who may be excused from jury service?
41. When was Interpol established?
42. Is Interpol a nonpolitical body?
43. How regularly does the general assembly meet?
44. What does the general secretariat coordinate?

GLOSSARY

A

action	иск
a civil action	гражданский иск
to bring an action	возбудить дело
Actus Reus	виновное действие
attorney	адвокат (*ам.* *прокурор*)
to argue a case	представлять дело в суде
to accuse	обвинять
the accused	обвиняемый
accusatorial	относящийся к обвинению

B

barrister	адвокат (выступающий в суде)
to breach	нарушать (закон, контракт и т.д.)
to break	нарушать (закон, правила)
binding	обязательный
bound	обязанный по закону

C

a crime	преступление
to commit a crime	совершать преступление
criminality	преступность
criminal	преступник
civilian	гражданское лицо
case	дело
to lose/win a case	проиграть/выиграть дело
court	суд
first instance court	суд первой инстанции
to convict	осуждать
conviction	осуждение, обвинительный приговор
to charge smb with smth	обвинять кого-л. в чем-л.
a charge	обвинение

D

defendant	ответчик, подсудимый
to doubt	сомневаться
a reasonable doubt	разумное сомнение
to damage	нанести ущерб
damage	ущерб
to defend	защищать
defences	а) защита на суде, б) возражения ответчика
self-defence	самозащита
duress	физическое принуждение
drugs	наркотики
drug trafficking	перевозка наркотиков

E

evidence	доказательство, улика, свидетельское показание
to give evidence	давать показания, представлять доказательства
to entitle	давать право
to be entitled (to)	иметь право на

F

to fine	штрафовать
fine	штраф
to impose a fine	наложить штраф

G

guilt	вина
the guilty	виновный
to find guilty	признать виновным

I

to investigate	расследовать
investigation	расследование
innocence	невиновность
the innocent	невиновный
insanity	невменяемость
to imprison	заключить в тюрьму
imprisonment	заключение в тюрьму
life imprisonment	*пожизненное заключение*

J

justice	правосудие
jurisdiction	отправление правосудия, юрисдикция
jail	тюрьма
judge	судья
judgement	судебное решение, приговор
judiciary	судебная власть
jury	суд присяжных

L

law	закон, право
to enforce laws	проводить закон в жизнь
to make laws	создавать законы
to break a law	нарушать закон
to obey the law	подчиняться закону
law-abiding	законопослушный
common law	общее право
case law	прецедентное право
public law	публичное право
civil law	гражданское право
criminal law	*уголовное право*
legal	*законный*
legal affairs	судебные дела
litigation	судебное разбирательство
litigant	сторона в гражданском процессе

M

Mens Rea	состояние воли в момент совершения преступления
mitigation	смягчение наказания

N

negligence	халатность

O

offence	нарушение, проступок

P

to punish	наказывать
punishment	наказание
to prosecute	преследовать в судебном порядке
prosecution	преследование в судебном порядке
party	сторона
penalty	*наказание*
to suffer a penalty	*понести наказание*
to prohibit	запрещать
prohibition	запрещение
powers	зд. полномочия
to have wide powers	иметь широкие полномочия
probate	распоряжение имуществом по завещанию
property	собственность
plaintiff	истец
proof	*доказательство*
standard of proof	*норма доказательств*
to prove	доказывать
proven	доказанный
to prevent	предотвращать
preventive	превентивный, предупредительный
probation	система испытаний

to place on	направлять на
probation	испытание

R

records	документы
right	право
human rights	права человека
right of audience	право выступать в суде

S

statute	законодательный акт
to sentence (to)	приговаривать
a sentence	приговор
to pass a sentence	выносить приговор
to suspect	подозревать
the suspect	*подозреваемый*
solicitor	поверенный
to sue	предъявлять иск

T

tort	гражданское правонарушение
trust	распоряжение имуществом по доверенности
trial	суд, судебное разбирательство
to torture	пытать
a torture	пытка

V

to violate	нарушать
violence	насилие

W

wrong	противоправное действие, нарушение

PART FIVE

Dialogues for Listening Comprehension

1. Прослушайте диалог и представьтесь.

A: Good morning! My name is_____. I am a lawyer from _____. Here is my business card.

B: Good morning, _____. My name is _____, and I'm a lawyer from _____. Here is my (business) card.

A: It is nice to meet you, _____. What kind of work do you do at your law firm?

B: My firm specializes in international business law. Right now I am working on issues for several international corporations.

A: That is my area of work as well. I work on some of the legal issues of corporate finance.

B; That is interesting work. I'm happy to meet you, _____.

2. *Прослушайте диалог и, опираясь на его лексику,* расскажите о себе.

A: Hello. My name is_____. I am a judge on the Constitutional Court of the Republic of_____.

B: It is nice to meet you, your honor. My name is _____. I am an associate (attorney) at (the law firm of) Baker and McKenzie. Welcome to Washington, D.C. Is this your first visit to the United States?

A: This is my second visit to the United States, but it is only my first trip to Washington. On my first visit, I went to New York City to attend a meeting at the United Nations.

B: I've always wanted to visit the United Nations. I'm very interested in the work of the Security Council. When I was a college student, I wrote a seminar paper on how the Security Council can enforce its resolutions.

A: That is an interesting and important topic.

B: Well, I don't want to take up too much more of your time, because other people are waiting to speak with you. I hope you enjoy your visit to Washington, Judge _____.

A: Thank you, _____. It was nice to speak with you.

B: It was nice speaking with you, too, _____.

3. Прослушайте диалог и перескажите его в форме повествования

A: Good afternoon. My name is Professor_____. I teach criminal law at the University of _____.

B: Good afternoon, Professor _____. My name is _____, and I am an Assistant State's Attorney.

A: It is nice to meet you, _____. Are you a prosecutor?

B: Yes, that's right. The State's Attorneys are the prosecutors. There are also public defenders and private attorneys who represent defendants in criminal cases.

A: I am looking forward to learning more about the criminal justice system in your country. I would like to see a jury trial some time.

B: Oh, that should be easy to arrange. There are jury trials taking place all the time in the courthouse. The trials are open to the public. You only need to find a courtroom, sit down, and listen to the trial. Please let me know if I can be of any assistance to you during your stay.

A: Thank you, I will. Do you have a business card?

B: Yes, here it is. Please feel free to call me at my office.

A: Thank you, here is my card as well.

B: Thanks.

4. Прослушайте диалог и скажите, что вы узнали о компании *Edelman and Parker.*

A: Hello. My name is _____. I am a partner with (the law firm of) Edelman and Parker in New York.

B: It's nice to meet you, _____. My name is _____. I am a graduate law student at _____. I'm from_____.

A: It is nice to meet you, _____.

B: I think that I have heard about your firm. If I remember correctly, you have an excellent reputation in the area of customs law and international trade law.

A: Yes, our firm does a lot of work with international businesses. Please stop by our offices if you are ever in New York.

B: Thank you, I would like that very much. Do you have a business card?

A: Yes, of course. How about you? Do you have a business card?

B: No, not yet. I'm still only a student!

5. Прослушайте диалог и скажите, в какой информации нуждается В.

A: Good morning. I'm _____, and I work with the regional office of the United States Customs Service.

B: Good morning, Mr _____. It is nice to meet you. My name is _____ and I'm from _____. I wanted to learn more about the customs laws of the United States because my brother is an exporter. He asked me to see if there was any general information that might explain some of the U.S. import laws.

A: We have a number of brochures and pamphlets available from my office. There is also a web site with additional information if you have access to the web.

B: I'm afraid that I do not have much experience with using the Internet. Perhaps I could stop by your office and pick up some of the brochures instead?

A: Certainly. I'll be back in the office tomorrow morning, and you can stop by any time tomorrow morning or tomorrow afternoon.

B: Thank you. I will try to make it in the morning.

A: Do you know where the office is?

B: Yes, I passed by it just yesterday.

6. Прослушайте диалог и расскажите, как пользоваться библиотекой по праву.

A: Hi. My name is _____, and I'm from _____. I'm going to be LL.M. student at _____.

B: I'm sorry, but your name is difficult for me to understand. Could you (please) spell it for me?

A: Sure, it is spelled _____.

B: It's nice to meet you, _____. I'm a student myself at _____, and my name is _____.

A: It's nice to meet you too, _____. How do you like the school so far?

B: Oh, I like it pretty well. I'm learning a lot about multinational corporations law right now. And next semester I'm planning to study international environmental law.

A: That's a great course. I've heard that the professor is really an expert in the field.

B: I'm glad to hear that. I'll be sure to look in the library to see what she has written about environmental law. She probably has written a book or some law review articles.

A: That's a good idea. The librarians can help you find her law review articles if you need some help to locate them.

B: That's a good tip, thanks. I don't have a lot of experience in using law libraries here. In fact, I've never had to look up a law review article before.

A: It isn't that difficult once you know what to do. The librarians will be happy to help you.

B: I'm glad to know that. The librarians in my country are not always willing to help people who dont know what they're doing.

7. Прослушайте диалог и дайте информацию о планируемых конференциях и выступлениях на них.

A: Hello, Professor! It's nice to see you again. How have you been?

B: Oh, just fine, Professor! Are you here for the conference of the American Society of International Law?

A: Yes, I'm. I wouldn't have missed it for anything.

B: Then you must be sure to attend my presentation tomorrow at the plenary panel. I'm presenting a paper on comparative constitutional law.

A: Oh, how very interesting. I'll try to remember to come. Can you send me a copy of the paper if I forget to come to your presentation?

B: Yes, of course. I can give you a copy now or you can wait to read it when it is published in the Harvard Law Review.

A: Oh, please give me a copy now. I don't think I could wait until you get published in the Harvard Law Review. By the way, I missed you at the last conference of the American Bar Association Section on International Law and Practice.

B: I was giving a lecture in Trinidad that weekend, so I had to miss it.

A: Yes, I heard that you gave an interesting lecture. I'm sorry that I couldn't be there as well.

B: Yes, it is really a shame that you missed it. Trinidad is beautiful at that time of year. Well, perhaps you will get the chance to hear me at the panel for the Section on International Legal Exchange at the annual meeting of the American Association of Law Schools.

A: Yes, perhaps I will. By the way, I am the chair of that panel.

B: You are the chair? I had no idea! I thought that they were going to invite me to be the chair!

8. ***Прослушайте диалог и обяснните по-английски значение слова*** *constituent.*

A: Good afternoon. My name is _____, and I'm a member of the national parliament of _____. This is my first trip to Washington, and I am here to learn about the inner workings of the legislative process in your country.

B: It's an honor to meet you, _____. My name is _____, and I'm a Member of Congress from the state of _____ of _____.

A: It is an honor to meet you as well, _____. Thank you for the opportunity to visit your office today.

B: I hope that you enjoy your visit here. If you need any particular information, you can ask anyone on my staff for assistance. My legislative assistant can give you some information about how we draft and submit proposed legislation. My other assistants can tell you about how we try to serve the needs of our constituents and to respond to their letters.

A: I'm sorry, I don't think that I understood one of the words that you used. What does the word "constituent" mean?

B: Oh, forgive me. A "constituent" is the name that we use to describe the voters in my district. I have to keep them happy because they are the ones who keep me in office.

A: I understand now. A "constituent" is a voter in your district. Thank you very much for the explanation.

B: You're welcome.

A: And thank you again for the offer of help from your staff.

B: You are most welcome. I hope that you enjoy your visit to Washington.

A: Thank you. Good bye.

B: Bye.

9. Прослушайте диалог и скажите, какую оценку конференции дают A и B.

A: Excuse me, officer, I would like to introduce myself. My name is Detective _____, and I work with the municipal police department in _____.

B: It's nice to meet you, Detective _____. I'm Officer _____, with the Homicide Division.

A: I'm pleased to meet you.

B: Likewise. Are you enjoying this conference?

A: Yes, I am, thank you. I really enjoyed the presentation on the proposed rules of evidence for the International Criminal Court. And I also enjoyed the discussion about the proposed revisions to the criminal rules of procedure.

B: Well, I thought that all of that was really boring, but I'm glad you got something out of it.

A: Perhaps it was not of interest to you because you work only with murder cases.

B: Yes, that's probably it. But the speaker was pretty boring, and I couldn't see the slides that he was showing us from the back of the room.

A: You should have moved up the front of the room. There were plenty of seats open in the first two rows.

B: Oh, I always try to sit in the back of the room. It makes it easier to sneak out if the presentation is boring.

A: You must go to a lot of boring presentations.

B: Yes I do. I hope that you aren't giving a presentation later.

A: No, I'm not.

B: Well, good. See you later.

10. Прослушайте диалог и скажите, какие книги по праву рекомендуется покупать, а какие нет.

A: Hi. My name is _____. I am a new student here and I need to buy books for one of my classes.

B: Sure. What class are you taking?

A: I have the classes written down on this piece of paper. Let's see. I'm taking "Introduction to Legal English" with Professor _____.

B: Oh, what a wonderful professor! You'll really enjoy that class. The books for the class are here on the top shelf. Here is the casebook for the class. There are also some law dictionaries over here.

A: Thank you. Wow! These books are expensive!

B: Yes they are. Most of the law books are really expensive. The books from the International Law Institute are very reasonably priced, however, and they are all top quality books, too.

A: That is good to know.

B: Oh! I just remembered that the Student Bar Association is having a used book sale next week. You might be able to find some used books there. Just don't buy books that have a lot of marking in them already.

A: Why not?

B: You don't want to be distracted by all of the writing and the other person's ideas. You never know if they were following the class discussion or not. The smartest students never sell their books, so the copies you buy there might not be from the smartest students.

A: I never knew that.

B: It's true. Anyway, if you do have to buy new copies of the books you can probably sell them yourself later to get some of your money back.

A: Oh, I think I will bring them back to my country. And besides, I'm a smart student. Is there anything else I need?

B: Let's see. Do you have all of your notebooks and study aids for your courses?

A: Yes, I have everything except the study aids. What are they?

B: There are different kinds of study aids. There are flashcards, commercial outlines, hornbooks, and condensed case briefs that will save you time and make your course material easier to understand. Most of the students find them to be very helpful.

A: If they do not help me, can I return them?

B: No. The study aides cannot be returned, but you can return your text books if they are not written in or damaged. You must also return them in two weeks from the first day of class if you want to get a full refund.

A: Thank you for the information. I guess I'll take these books and these flashcards and outlines.

B: Great. Your total is £2,795.25. How would you like to pay?

A: Do you accept traveler's checks?

B: Sure, but we don't get them so often. Here's your change, and you are ready to go. Good luck this semester! I hope that you enjoy your classes. My name is _____ if you have any questions.

A: And my name is _____. Thanks for all of your help, _____.

B: You're welcome, _____.

11. Прослушайте диалог и а) объясните, что такое *in-house*; б) дайте интерпретацию профессионального сленга *to farm out*.

A: Hello, my name is _____. I'm from _____.

B: It's nice to meet you, _____. Hello, my name is _____, and I'm from _____. What kind of work do you do?

A: I am in-house counsel at an insurance company.

B: I'm sorry, but I'm not sure that I understood you. What is an "in-house counsel" exactly?

A: That only means that I work "in-house". We have some legal work that we farm out to outside law firms and we have other matters that we keep inside the company. I deal with those internal matters and I supervise the legal work that we send to the outside law firms.

B: What does it mean to "farm out" something?

A: Oh, that's just a slang expression. It means to delegate work to someone else. When we "farm out" work from my company, we send it to outside law firms.

B: I think I understand now. Thank you for explaining.

A: You're welcome. What kind of work do you do?

B: I work for the International Trade and Development Commission of my country. I am here to learn more about international investment law.

A: I hope that you have a productive visit. Please let me know if I can help in any way.

B: Yes, perhaps you could introduce me to some of the other lawyers here who work as "in-house counsel". I would like to learn more about that.

A: Yes, I can introduce you to some friends of mine.

B: Thank you, I would like that very much. Here is a card with my telephone number.

A: Thank you, _____. Here is my card.

B: Thank you, _____.

12. Прослушайте диалог и скажите, как можно обратиться к преподавателю за помощью в трудной ситуации.

A: Excuse me, Professor! My name is _____, and I just wanted to say that I enjoyed your lecture.

B: Thank you, _____, that is very kind of you. I hope that you were able to get some good notes.

A: Yes, you explained the materials in a way that made it very easy to understand. I never realized how judicial decisions can change the interpretation of a statute.

B: Well, I'm glad that you learned something from the lecture.

A: Yes, I did. Thank you. Even so, I might have some questions later about the hypotheticals that you mentioned in class. Those examples were a little difficult for me to follow because I am not from this country and I didn't know the places that you were talking about. Would it be all right for me to call you after I review my notes?

B: Yes, of course. You can stop by my office during office hours or you can send me an e-mail message. My e-mail address is listed on the syllabus, and my office hours are posted on the door of my office.

A: Thank you very much. I will review my notes and I will e-mail you if I have any questions.

B: Good. It was nice to meet you, and I am glad that you enjoyed the lecture.

A: Thank you, Professor _____.

B: You're welcome. Oh, and by the way, don't be afraid to ask questions during class if we talk about things that are unfamiliar to you.

A: Well, I must confess that I am a little afraid to ask questions in front of other students. I am not yet very confident in my ability to speak in English.

B: Well I can understand you just perfectly, and that is the important thing. Please don't be afraid to ask questions.

A: O.K. I will.

B: That's great. I'll see you in class.

A: Goodbye.

B: Bye.

13. Прослушайте диалог и скажите, какие аспекты языка Ben Goshi, Rex Anwalt и Ed Vocat хотят улучшить.

A: Hi. My name is Benjamin Goshi. You can call me Ben. I'm a lawyer from Japan. I am here to take a special course to improve my English.

B: It's nice to meet you, Ben Goshi. I work in a business law firm in Germany. My name is Rex Anwalt. I am here to take a course that will teach me legal vocabulary.

A: It's nice to meet you, Rex Anwalt.

B: Have you met my friend, Ed Vocat? He's a lawyer from Paris. He specializes in intellectual property law, and he wants to improve his writing skills in English.

A: It's nice to meet you, Ed Vocat. I hope that you enjoy the course.

14. Прослушайте диалог и скажите, как пользоваться библиотекой при написании научной работы.

A: Hello. My name is _____ and I am a new student here at _____. I need to do some research for a paper for my international law class. Can you help me start my research?

B: Hello, _____. I am _____ and I want to welcome you to the library.

A: I have no idea where to begin my search. This library is huge.

B: Yes, the library is huge, but it also easy to use. What is the topic of your research?

A: I want to write a paper about _____.

B: You can begin by following me over to the card catalog. Actually it is a computer now, but we still call it a card catalog. Here we are. You can search for a particular author or a book title. If you don't know exactly what you want, you can do a topic search. When your topic is specific, you are more likely to find what you need. Yes, the computer has given us a list of sources for your research.

A: I am very happy that you have shown me the library's computer search system. It has saved me a lot of time.

B: No problem at all, _____. The next thing you want to do is scroll down the page to see if the materials are in this library or in another library near here. It appears as if all of your sources are here in this building and currently on the shelves. You can print out the list of sources and go to the shelves to get the books.

A: In my country the library works very differently. We are not allowed to go to the shelves ourselves. We must write down the book title and give it to the librarian, and the librarian will go and get the books for us.

B: Well, I hope you will be able to adjust to this system. I think an advantage of being able to look yourself for the book is that you will likely find other books also on the topic as you are looking for the specific title that you want.

A: That's great. Thank you for your help. I should be able to find what I need very quickly.

B: Good luck in finding your materials. Please let me know if you have any questions or problems in finding the books.

A: I will. Thanks again, _____.

B: It was my pleasure, _____.

SEVERAL WAYS TO MAKE FORMAL INTRODUCTIONS

1.

Introduction of a Speaker

Good afternoon, judges, honored guests, and members of the association. Today it is my great pleasure to introduce Professor _____, one of the world's leading authorities on electronic communication law and international business transactions. Given the nature of this audience, you are probably already familiar with (his or her) many publications in the field. Professor _____ teaches at the University of Vienna, Austria, and (he or she) is in the United States now to begin a term as a visiting scholar-in-residence at New York University School of Law. (He or she) will speak to us today on the legal issues of verifying electronic signatures on international shipping documents. Please join me in welcoming Professor _____.

2.

Introduction of a Speaker

Good afternoon. Welcome to the monthly meeting of the Young Lawyers' Section on International Law. I'd like to introduce our speaker today, Mr. Jumanazar Sultanov, from Uzbekistan. Mr. Sultanov graduated from Tashkent State University in 1995 after studying mathematics and mechanics. He has also earned undergraduate and graduate degrees from the University of World Economy and Diplomacy with a concentration in international law. Mr. Sultanov will speak to us about recent legal developments in Uzbekistan, including some of the technical matters related to the privatization of key government-owned industries. He will first make a short presentation, and then we will open up the discussion for your questions and comments.

3.

Introduction of a Speaker

Good evening, and thank you for coming to this reception. Tonight we are honoring Alice M.Dear, the U.S.Executive Director to the African Development Bank. The African Development Bank is a multilateral development finance institution affiliated with the World Bank Group and composed of 77 member countries. The African Development Bank is engaged in promoting economic and social progress on the African continent.

Among other things, the bank's main functions are to promote economic development and expand capital markets and investment in Africa. The U.S.Executive Director, Alice M.Dear, was appointed by President Clinton. She is responsible for promoting trade and investment between the United States and Africa. Please join me in welcoming the Executive Director.

4.

Introducing Friends

A: I would like to introduce you to my friend, Azamat Fayzullaev, from Uzbekistan. Azamat received a law degree from the University of World Economy and Diplomacy in Tashkent, and he also received a Master of Laws degree in Comparative Legal Studies from The John Marshall Law School in Chicago. He is thinking of getting another LL.M. degree at the University of Indiana School of Law.

B: And I would like to introduce you to my friend, Ramunas Kazlauskas, from Lithuania. Ramunas received his law degree from the University of Vilnius, and he helped to develop a training program for Lithuanian lawyers in commercial law. He would like to study law at Valparaiso University School of Law.

5.

Introduction of a Speaker

Good afternoon. It is my great pleasure to introduce our speaker, Mr. Sergey Mikheev. Mr.Mikheev is from the Russian Federation, where he graduated from the Urals State University with a major in physics. He worked as an operator of a nuclear reactor for five years before deciding to return to school and study law at the University of Perm. After six years of law studies, he started work at a large commercial enterprise as a legal advisor and he practiced law at the same company for several years. He recently received a Muskie Fellowship to continue his legal education in the United States. Mr.Mikheev will speak to us about recent legal developments in Russia in the areas of international trade and intellectual property law. Please join me in welcoming Mr.Mikheev.

6.

Introducing Several Speakers

Good afternoon, and welcome to our special program on recent legal developments in the former Soviet Union. Today we are honored to have four speakers, each from a different part of the former Soviet Union and each one an expert in recent legal developments in that part of the world.

I'll introduce each of them now and let them each say a few words before we open the floor to your questions. Our first speaker will be Mr.Hurshid Tadjiev, from Tashkent, Uzbekistan. Mr.Tadjiev works with the Department of International Cooperation in the Uzbekistan Ministry of Foreign Affairs. Our second speaker is Ms.Vita Smidre, from Latvia. Ms.Smidre received her law degree from Latvia University and she has worked for many years in Riga in the areas of copyright and trademark law. Our third speaker will be Mr.Dmitry Vorobyov, from Russia. Mr.Vorobyov received a Bachelor of Law degree from Moscow University and he currently works for an international law firm in Moscow. Our final speaker Mr.Oleg Zagnitko, is from Ukraine. Mr.Zagnitko received his law degree from Donetsk University. He has worked in the Ukrainian National Academy of Sciences, where he drafted economic legislation. He has also studied legislative drafting at Tulane University School of Law in New Orleans, Louisiana. As you can see, we are quite fortunate to have such a panel of international experts with us here tonight. Please join me in welcoming our speakers.

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