МІНІСТЕРСТВО ОСВІТИ І НАУКИ, МОЛОДІ ТА СПОРТУ УКРАЇНИ
НАЦІОНАЛЬНИЙ УНІВЕРСИТЕТ “ЮРИДИЧНА АКАДЕМІЯ УКРАЇНИ імені ЯРОСЛАВА МУДРОГО”

МАТЕРІАЛИ ДО ПРАКТИЧНИХ ЗАНЯТЬ

З НАВЧАЛЬНОЇ ДИСЦИПЛІНИ

“ІНОЗЕМНА МОВА (АНГЛІЙСЬКА)”

Харків
2013

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"ІНОЗЕМНА МОВА (АНГЛІЙСЬКА)"

(галузь знань 0304 "Право",
освітньо-кваліфікаційний рівень "Бакалавр",
напрям підготовки 6.030401 "Правознавство")

для студентів І та ІІ курсів заочної форми навчання

Харків
2013

Матеріали до практичних занять з навчальної дисципліни "Іноземна мова (англійська)" (галузь знань 0304 "Право", освітньо-кваліфікаційний рівень "Бакалавр", напрям підготовки 6.030401 "Правознавство") для студентів І та ІІ курсів заочної форми навчання / уклад. І. П. Липко, Т. С. Лозбень, Т. Є. Малєєва, С. М. Романюк. – Х.: Нац. ун-т "Юрид. акад. України ім. Ярослава Мудрого", 2013. – 50 с.

У к л а д а ч і : І. П. Липко,
Т. С. Лозбень,
Т. Є. Малєєва,
С. М. Романюк

Рекомендовано до видання редакційно-видавничою радою університету (протокол № 1 від 15.01.2013 р.)

В С Т У П

Навчальна дисципліна "Іноземна мова (англійська)" – одна із складових соціально-гуманітарної підготовки, мета якої полягає в оволодінні загальною юридичною термінологією, вдосконаленні навичок читання та вмінь перекладання та реферування текстів за фахом.

Завданнями курсу є навчання різних видів мовленнєвої діяльності, що включає засвоєння:

- фонетичних норм англійської мови;
- граматичного матеріалу англійської мови;
- лексичного мінімуму, знання якого забезпечує студентам можливість вести бесіду за фахом та одержувати інформацію з англійських писемних та усних джерел;
- абревіатур іншомовних фахових термінів у певній професійно орієнтованій галузі;
- методів аналітичного опрацювання англомовних джерел;
- роботи з електронними англомовними джерелами.

У результаті опанування дисципліни студенти заочної форми навчання повинні:

1. Володіти лексичним мінімумом в обсязі 4000 лексичних одиниць загального і термінологічного характеру.
2. Розуміти вільні і сталі словосполучення та фразеологічні одиниці.
3. Знати основні способи словотворення.
4. Читати й розуміти тексти за вузьким профілем спеціалізації.
5. Удосконалити свої лексико-граматичні навички та вміти їх використовувати.

Самостійна робота студентів є одним із головних елементів навчального процесу за заочною формою, оскільки більша частина матеріалу робочої програми дисципліни вивчається самостійно в міжсесійний період. Цей вид є інтегрованою частиною навчання та оцінюється на практичних заняттях.

Робочий навчальний план, з яким можна ознайомитись на кафедрі, містить конкретні завдання та строки їх виконання,

що дозволяє студенту закріпити матеріал, пройдений на практичних заняттях, та підготуватися до наступних або до відповідного виду контролю. Наприклад, студент повинен виконати вправи (лексичні, граматичні та лексико-граматичні), зробити переклад, здійснити пошук інформації в англомовних Інтернет-джерелах та підготувати повідомлення з використанням додаткової інформації тощо. Наведені наприкінці видання таблиці з лексико-граматичним материалом допоможуть у виконанні вправ та перекладі текстів.

Протягом сесійного періоду на практичних заняттях перевіряється рівень знань відповідного семестру. Формами контролю є заліки та іспит, мета яких – перевірка рівня знань та умінь, передбачених навчальною програмою. Студенти мають можливість отримати консультації з питань, що викликають труднощі у вивченні англійської мови, а отже, добре підготуватися до складання заліків та іспиту шляхом виконання різноманітних завдань з лексико-граматичного аналізу, перекладу та реферування навчальних текстів.

Розподіл навчального часу

Семестр	Вид навчальної роботи	Годин	Підсумкові форми контролю
1	установча сесія	2	
2	практичні заняття	4	залік
3	практичні заняття	4	залік
4	практичні заняття	6	іспит

Вимоги до заліку: читання та переклад текстів за фахом.

Вимоги до підсумкового іспиту:

1. Переклад українською мовою текстів за фахом.
2. Реферування українською мовою англійського юридичного тексту.

Студент має можливість обирати самостійно матеріал за певними темами зі списку рекомендованої літератури або з Інтернет-джерел.

Список літератури*

The Letter of the Law. Буква закону : підруч. з англ. мови для навчання профес. спілкування майбут. Правників: [with CD-ROM Pack.] / Л. М. Черноватий, І. П. Липко, С. М. Романюк та ін.; за ред. Л. М. Черноватого та І. П. Липко. – Х. : Право, 2011 – 526 с.

English for Lawyers : підруч. для студ. вищ. навч. закл. / за ред. В. П. Сімонок. – Х.: Право, 2011. – 648 с.

Практична граматика англійської мови з вправами : навч. посіб. / І. П. Ліпко, С. М. Романюк, Т. М. Щокіна та ін. – Вінниця: Нова кн., 2007. – 248 с.

Переклад англомовної юридичної літератури: навч. посіб. для студ. вищ. закл. освіти / І. П. Ліпко, Л. М. Черноватий та ін. – Вінниця: Нова кн., 2006. – 656 с.

Переклад англомовної громадсько-політичної літератури: система держ. упр. США: [навч. посіб.] / І. П. Ліпко, Л. М.Черноватий та ін. – Вінниця : Нова кн., 2006. – 400 с.

http://en.wikipedia.org/wiki/Political_parties_in_the_United_States

http://en.wikipedia.org/wiki/List_of_political_parties_in_the_United_Kingdom

http://en.wikipedia.org/wiki/Constitution_of_the_United_Kingdom

* Зазначена література є в бібліотеці, а також в електронному вигляді на сайті Університету. Поряд з цим можна використовувати матеріали з інших джерел.

ПЛАНИ ПРАКТИЧНИХ ЗАНЯТЬ

ІІ семестр

Тема 1. **Political Parties and Elections in the United Kingdom and the USA**

План

1. Граматика. Типи речень. Утворення питальних, заперечних і спонукальних речень. Конструкція “there is/are”. Безособові речення. Іменник: множина, артикль, присвійний відмінок. Обчислювальні та необчислювальні іменники. Множина іменників. Присвійний відмінок. Рід. Артикль. Займенники: особові, присвійні, об’єктні, зворотні. Ступені порівняння прикметників та прислівників.

2. Навчальні тексти.

Text 1

Political parties in the USA

The modern political party system in the U.S. is a two-party system dominated by the Democratic Party and the Republican Party. These two parties have won every United States presidential election since 1852 and have controlled the United States Congress to some extent since at least 1856.

The Democratic Party

It is the oldest political party in continuous operation in the United States and it is one of the oldest parties in the world. The Democratic Party traces its origins to the Democratic-Republican Party, founded by Thomas Jefferson, James Madison, and other influential opponents of the Federalists in 1792. Historically, the party has favoured farmers, labourers, labour unions, and religious and ethnic minorities; it has opposed unregulated business and

finance, and favored progressive income taxes. Today, Democrats advocate more social freedoms, affirmative action, balanced budget, and a free enterprise system tempered by government intervention (mixed economy). The Democratic Party supports equal opportunity for all Americans regardless of sex, age, race, sexual orientation, religion, creed, or national origin. It holds an outright majority in the House of Representatives and the Democratic caucus constitutes a majority in the United States Senate. Democrats also hold a majority of state governorships and control a plurality of state legislatures. The party's nominee Senator Barack Obama has become the 44-th President of the United States in the 2008 election. Some of the party's key issues in the early 21st century in their last national platform have included the methods of how to combat terrorism, homeland security, and expanding access to health care, labour rights, environmentalism, and the preservation of liberal government programs.

The Republican Party

The Republican Party was created in 1854 in opposition to the Kansas-Nebraska Act that would have allowed the expansion of slavery into Kansas. Besides opposition to slavery, the new party put forward a progressive vision of modernizing the United States – emphasizing higher education, banking, railroads, industry and cities, while promising free homesteads to farmers. In this way, their economic philosophy was similar to the Whig Party's. The Party nominated Abraham Lincoln and ascended to power in the election of 1860. It is the second-oldest continuing political party in the United States. The term "Grand Old Party" or the initials "GOP" are the traditional nicknames for the Republican Party. The second half of the 20th century saw election of Republican presidents Eisenhower, R. Nixon, R. Reagan, George H. W. Bush, and George W. Bush. The Republican Party were elected to majorities to both houses of Congress in 1994. In the 21st century the Republican Party is defined by social conservatism, an aggressive foreign policy attempting to defeat terrorism and promote global democracy, a

more powerful executive branch, tax cuts, and deregulation and subsidization of industry.

Text 2

Political Parties in the UK

Historically, the United Kingdom had two major political parties. Originally, the Tories and the Whigs (later they evolved into the Conservatives and the Liberal Party) dominated British politics. The Conservative Party and the Liberals remained the main parties until the 1920s, when the latter declined in popularity and was replaced by the newly emerging Labour Party, which became the main rival of the Conservatives. Since then the Conservative and the Labour Parties have dominated British politics, and have alternated in government. However, the UK is not quite a two-party system since a third party (recently, the Liberal Democrats) can prevent 50% of the votes/seats from going to a single party. In 1988 the Liberals merged with the Social Democrats because they had very similar views and became the Liberal Democrats. Now it is a sizeable party whose electoral results have improved in recent years. Other parties, often called minor parties, contest elections but few win seats in Parliament. Each major party has its own emblem and colour: the Conservatives have a blue torch, the Labour Party a red rose and the Liberal Democrats a yellow bird.

The Conservative Party

The Conservative Party is one of the oldest and most successful political parties in the world. Its guiding principles include promotion of private property and enterprise, maintenance of a strong military and foreign policy, and preservation of traditional cultural values and institutions. The modern party (whose members are often known as Tories) is essentially a coalition of two groups, and must balance its traditionalist and communitarian wing against its libertarian and individualist wing. It also experiences internal conflict over Britain's relationship with the European Union.

Its leaders now came to be drawn from the business and professional classes rather than the landed and titled. At the same time nearly a third of the working classes has usually supported the Conservatives for reasons of patriotic identity, resentment of immigrant groups, hostility to Catholics or dissenters, or just a sense of economic interest. Currently the Conservatives are the largest opposition party and form Her Majesty' s Loyal Opposition in the Parliament of the United Kingdom.

The Labour Party

The Labour Party is the principal centre-left political party in the United Kingdom. In opposition to the Conservative Party it has been Britain's major democratic socialist party since the early 20th century. It evolved outside Parliament amongst trade unions and socialist organizations and tried to get representatives into Parliament to achieve its aims. As a party founded by the unions to represent the interests of working class people, Labour's link with the unions has always been a defining characteristics of the party. Though the most loyal Labour Party voters remain blue-collar workers, a larger proportion of its support has come from middle-class voters, especially well-educated and professional people, and many perceive this support as key to Labour's electoral success since 1997. Historically, the party was broadly in favour of socialism and advocated socialist policies such as public ownership of key industries, government intervention in the economy, redistribution of wealth, increased rights for workers, the welfare state, publicly-funded healthcare and education. The Labour party receives a lot of its money from trade unions and would like to have a law passed that forces parties to reveal the source of large donations and to prevent money being sent from abroad. The Labour leader is elected at the party conference by representatives of trade unions, individual members and Labour MPs. In recent years the Labour party has embarked on wide-ranging reviews of its policies in order to broaden its appeal, take account of changing economic and social conditions and remain a major force in British politics.

Text 3

Elections in the USA and the UK

Elections in the USA

Elections are held regularly for President of the US, for both houses of Congress and for state and local government offices. On a national level, the head of state, the President, is elected indirectly by the people, through electors of an electoral college. In modern times, the electors virtually always vote with the popular vote of their state. All members of the federal legislature, Congress, are directly elected. Both federal and state laws regulate elections. The United States Constitution defines (basically) how federal elections are held, in Article One and Article Two and various amendments. State law regulates most aspects of electoral law, including primaries, the eligibility of voters (beyond the basic constitutional definition), the running of each state's Electoral College, and the running of state and local elections. The financing of elections has always been controversial, because private sources of finance make up substantial amounts of campaign contributions, especially in federal elections.

Presidential Elections

The Constitution requires the President must be at least 35 years old, a natural born citizen of the United States and a resident in the United States for at least fourteen years. Candidates for the presidency are chosen by political parties through a series of primary elections several months before the presidential election, which is held every four years (in years divisible evenly by 4) on the first Tuesday after the first Monday in November. The twenty-second Amendment, ratified in 1951, limits the president to two terms in office.Although the names of the candidates appear on the ballot, the people technically do not vote directly for the president and vice president. Instead, the voters of each state select a slate of presidential “electors”, equal to the number of senators and representatives that state has in Congress. The candidate with the

highest number of votes in each state wins all the "electoral votes" of that state. The electors in each state gather in their state capital shortly after the election and cast their votes for the candidate with the largest number of popular votes in their state. To be successful, a candidate for the presidency must receive 270 electoral votes out of possible 538.

Congressional Elections

Elections to Congress take place every two years. Congress has two chambers: Senate and the House of Representatives. The Senate has 100 members, elected for a six year term in dual-seat constituencies (two from each state) with one-third being renewed every two years. Hence, two-thirds of the senators are always persons with some legislative experience at the national level. Until the Seventeenth Amendment to the United States Constitution in 1913, Senators were elected by state legislatures, not the electorate of states. Senators must be at least 30 years old, a citizen of the United States for at least nine years, and be a (legal) inhabitant of the state they represent. The House of Representatives has 435 members, elected for a two year term in single-seat constituencies. House of Representatives elections are held every two years on the first Tuesday after the first Monday in November in even years. House elections are first-past-the-post elections that elect a Representative from each of 435 House districts which cover the United States. Special House elections can occur between if a member dies or resigns during a term. The Constitution states that members of the United States House of Representatives must be at least 25 years old, a citizen of the United States for at least seven years, and be a (legal) inhabitant of the state they represent. The states may set additional requirements for election to Congress, but the Constitution gives each house the power to determine the qualification of its members.

Elections in the UK

In England, elections have been used as a parliamentary process since the 13th century. The secret ballot was adopted in 1872 and full equal voting rights for women in 1928. At present, the United Kingdom has five distinct types of elections: UK general elections, elections to national or regional parliaments and assemblies, elections to the European Parliament, local elections and mayoral elections. Elections are held traditionally on Thursdays. General elections do not have fixed dates, but must be called within five years of the opening of Parliament following the last election. Unlike many European nations, the United Kingdom uses a first-past-the-post system to elect members of Parliament. There is, however, no "post" that the winning candidate must pass in order to win, as they are required only to receive the largest number of votes in their favour. This sometimes results in the alternative name "furthest past the post".

General Elections

General elections in Britain traditionally refer to the election of Members of Parliament (MPs) to the House of Commons. They must be held 5 years after the first session of the new Parliament. Therefore elections are not fixed, and the time is chosen by the governing party to maximize political advantage. Candidates aim to win particular geographic constituencies in the UK. Almost all candidates are members of a political party and in fact the majority of voters in the UK choose the candidates' parties, rather than the personalities or opinions of individual candidates. Although it is relatively easy to stand for election as an independent candidate, wins are very rare. Each constituency elects one MP by single member plurality system (or the first past the post system) of election. Under the plurality system, the winner of the election acts as representative of the entire electoral district, and serves with representatives of other electoral districts.. The party with the most seats in Parliament, usually forms the government. Thus, the UK's electoral system of single-

member districts with plurality victors tends to produce two large political parties. The reason: there is a big premium to combine small parties into big ones in order to edge out competitors. The largest party not in government becomes the Official Opposition, known as Her Majesty's Loyal Opposition. Any smaller parties not in government are collectively known as “the opposition”. Any vacancies created in the House of Common, due to death, ennoblement, or resignation are filled through the process of by-election.

Т е м а 2. ***The Constitutions of the UK and the USA***

П л а н

1 . Г р а м а т и к а . Утворення форм дієслова у дійсному стані (Active Voice).

2 . Н а в ч а л ь н і т е к с т и .

Text 1

The US Constitution

The Constitution of the United States is the supreme law of the United States of America. The first three Articles of the Constitution establish the rules and separate powers of the three branches of the federal government: a legislature, the bicameral Congress; an executive branch led by the President; and a federal judiciary headed by the Supreme Court. The last four Articles frame the principle of federalism. The Tenth Amendment confirms its federal characteristics.

The Constitution was adopted on September 17, 1787, by the Constitutional Convention in Philadelphia, Pennsylvania, and ratified by conventions in eleven states. It went into effect on March 4, 1789. The first ten constitutional amendments ratified by three-fourths of the states in 1791 are known as the Bill of Rights. The Constitution has been amended seventeen additional times (for a total of 27 amendments) and its principles are applied in courts of

law by judicial review.

The Constitution guides American law and political culture. Its writers composed the first constitution of its kind incorporating recent developments in constitutional theory with multiple traditions, and their work influenced later writers of national constitutions. It has been amended over time and it is supplemented and interpreted by a large body of United States constitutional law. Recent impulses for reform center on concerns for extending democracy and balancing the federal budget.

The US Constitution calls itself the "supreme law of the land." Courts have interpreted this clause to mean that when state constitutions or laws passed by state legislatures or by the national Congress are in conflict with the federal Constitution, these laws have no force. Decisions made by the Supreme Court over 200 years have strengthened this doctrine of constitutional supremacy. Final authority is vested in the American people, who can change the fundamental law, if they wish, by amending the Constitution or drafting a new one. The people do not exercise their authority directly, however. They delegate the government to public officials, both elected and appointed. The power of public officials is limited under the Constitution. Their public actions must conform to the Constitution and to the laws made in accordance with the Constitution. Elected officials must stand for re-election at periodic intervals, when their records are subject to intensive public scrutiny. Appointed officials may be removed at any time. The exception to this 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.

Commonly, the American people express their will through the ballot box. The Constitution, however, makes 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, …high crimes and misdemeanors."

According to the Constitution, the United States Supreme Court is the highest court in the land. It has to interpret the

Constitution, making sure that no laws passed by state or federal legislative bodies contradict the US Constitution. One of the most important aspects of the Supreme Court is a special concern for the constitutional law – no one, except the American people, can amend it or draft a new Constitution. This final authority of the American people is exercised by delegating it to elected and appointed public officials, whose behavior must conform to the Constitution. All elected officials must stand for regular re-election and they may be removed from office on impeachment if their record is unsatisfactory, or in case of extreme misconduct. Appointed officials, except justices of the Supreme Court and other federal judges, who should be free of political obligations or influence, may be removed from office, too. The courts in general should protect the constitutional supremacy and the rule of law.

Text 2

The UK Constitution

The United Kingdom's constitution may be described as uncodified, flexible, unitary, institutional and practical. It is derived from a number of unwritten and written sources: parliamentary acts, conventions, European Union law, common law, etc. Its principal source is statute law, which determines the powers and scope of government, and the conduct of elections. A unique feature of the constitution is the absence of a formal doctrine of the separation of powers. Control depends on political and democratic principles rather than a rigid system.

Conventions have grown from custom and usage. Although not supported by law, these constitutional unwritten rules are sanctioned by common practice and political convenience and are considered to be binding. They are essential to the cooperation of the Crown, the House of Lords and the House of Commons, in whom the legislative, executive and judicial powers are vested.

Adjudications also provide rules of law which have constitutional significance. The doctrine of precedent dictates that such decisions are binding on lower courts. This judge-made law

can derive from two sources: common law and interpretation of statutes.

There is no modern document that codifies the rights of citizens, because of the doctrine of negative rights, under which Britons have enjoyed the right to do anything that is not prohibited. The UK was one of the first countries to ratify the European Convention on Human Rights (ECHR). In 2000 the Convention became directly enforceable in the courts under the 1998 Human Rights Act. Nevertheless the courts may not invalidate statutes; they can only issue a "declaration of incompatibility" with the ECHR provisions.

Constitutional monarchy is a key principle of the constitution. The Royal prerogative is the collective name for powers belonging to the Sovereign which have been delineated formally. The Royal prerogative is not unlimited. No new prerogative can be created and Parliament can abolish individual prerogatives. Conventionally the prerogatives are used on the advice of his/her Ministers. The Monarch has three constitutionally important powers: to dissolve Parliament and precipitate a general election, to choose the Prime Minister if there is no clear-cut candidate and to give the Royal Assent to legislation. Currently, an extension of the royal prerogative to Parliament allows the government to undertake a wide variety of actions in the name of the Crown, in particular, on affairs of national security, granting of royal charters, public and political appointments, the honors' system, and accountability of Ministers. Regulation of these powers is political rather than formal or statutory, and reform has proceeded piecemeal through case law, and amendments to the Ministerial Code.

The Principles of the Constitution

The essentials of the United Kingdom's constitution are the sovereignty of parliament and the rule of law. The latter means that everyone is equal before the law. The rule of law, which Dicey defined in terms of preventing "arbitrary decision making", rests on the wisdom of convention and relies on good sense and judgment to prevail.

The principle of Parliamentary sovereignty means that Parliament is the supreme law-making body: its Acts are the highest source of British law. It follows that Parliament can alter the constitution simply by passing new Acts of Parliament. Another consequence of the principle is that there is no hierarchy among Acts of Parliament: all parliamentary legislation is, in principle, of equal validity and effectiveness. However it is possible to indicate a special class of "constitutional statutes" such as Magna Carta and the Human Rights Act 1998. With Britain's membership of the European Union, both these traditional aspects of constitutional law have recently come under debate and scrutiny as part of the process of fundamental reform. Under the European Communities Act 1972 the UK applies all EU law that it passes in common with other member states.

Text 3

Types and Functions of Constitutions

Constitutions are the framework for government and may limit or define the *authority* and procedure of political bodies to execute new laws and regulations. Not all nation states have *codified constitutions though* all law-governed states have law of land consisting of various imperative and consensual rules. They may include common law, conventions, statutory law and international rules.

Codified constitutions are considered rulemaking fundamentals, or rules about making rules to exercise power. They govern the relationships among the judiciary, *the legislature* and the executive bodies. One of the key tasks of constitutions within this context is to indicate *hierarchies of power.* For example, in a unitary state the constitution will vest ultimate authority in the central administration and legislature, and judiciary, though there is often a *delegation of authority* to local or municipal bodies When a constitution establishes a federal state it will identify several levels government coexisting with exclusive or shared areas of jurisdiction over lawmaking, application and enforcement.

Human rights or liberties for citizens form a crucial part of a country's constitution and govern the rights of the individual against the state. Most jurisdictions, like the United States, Ukraine and France, have a single codified constitution. A recent example is the Charter of Fundamental Rights of the European Union, which was intended to be included in the Treaty establishing a Constitution of Europe.

Some countries, like the United Kingdom, have no entrenched document setting out the fundamental rights – in this jurisdiction the constitution is composed of statute, *case law* and *convention.* Inspired by a famous philosopher John Locke, the fundamental *constitutional principle* is that the individual can do anything but that is forbidden by law, while state may do nothing but that is which authorized by law.

The function of codified constitution is also to describe the procedure by which parliaments may *legislate.* For instance, special majorities may be required to *alter* the constitution. In two-chamber legislatures there may be a process laid out for second or third readings of bills before a new law can be passed.

ІІІ семестр

Тема 1. **Civil Proceedings in the USA and the UK**

План

1. Граматика. Утворення форм дієслова у пасивному стані (Passive Voice).
2. Навчальні тексти.

Text 1

Civil Proceedings in the USA

The first procedural questions in many cases are: where must the case be filed, and when must the case be filed. Statutes of limitations concern "when" cases must be filed. Jurisdiction governs the power of Ohio's courts to deal with different types of civil lawsuits and criminal prosecutions. Venue concerns the location of particular court where a case must be tried. Statutes of limitations provide time limits for bringing civil lawsuits and criminal prosecutions. Generally, jurisdiction means the power of a court. Different courts have different powers, and a case can be brought only in a court with authority to deal with it. There are several kinds of jurisdiction. "Subject matter jurisdiction" is the power of a court to deal with particular kinds of cases. "Monetary jurisdiction" is the minimum or maximum dollar limit on civil cases that a particular court can handle. "Territorial jurisdiction" is the geographic extent of a court's power. A court has territorial jurisdiction over civil cases when the incident or transaction on which the case is based occurred in the court's territory or, in some cases, when the defendant or the plaintiff lives in the court's territory. In criminal cases, a court generally has jurisdiction when the crime, or any essential part or "element" of the crime, occurred in the court's territory. Whereas jurisdiction refers to the power of a court to try a case, venue refers to the place where it is to be tried. Usually, venue follows territorial jurisdiction in both civil and criminal cases. Venue can be changed in criminal cases when the change is

necessary to secure a fair trial. A change of venue might be granted, for example, in the trial of a particularly terrible crime where publicity has inflamed local public opinion against the accused.

How a Civil Case Begins

A civil case begins when the claimant, or plaintiff, files a written statement of her claim (a complaint) in a court. Her opponent, or the defendant, must then be notified of the suit, and given an opportunity to answer or challenge the complaint.

Complaint. The Ohio Rules of Civil Procedure provide that a lawsuit is started by filing a written pleading called a complaint with the proper court. The complaint must contain: 1) a short and plain statement of the claim which shows that the plaintiff is entitled to relief under the law; and 2) a demand (or "prayer") for the kind of relief to which plaintiff believes she is entitled. This "relief" might be payment of a special amount of money, or a court order directing defendant to do or refrain from doing a certain thing (an "injunction"), or other relief. Different kinds of relief can be requested in the same complaint. If the plaintiff has not specified the damages sought, then at any time 28 days after the filing of a complaint, the defendant may request that plaintiff state an amount of damages sought.

Notice to the Defendant

The defendant in a lawsuit is entitled to know that he has been sued, and why. Accordingly, when a complaint is filed, a summons is issued to the defendant. The summons tells the defendant who sued him, and when and where he must defend himself. The summons also states that if he does not defend himself, he may lose by default. A copy of the complaint is attached to the summons so that the defendant will know the exact nature of the claim against him. The summons and attached complaint are known as "process". The delivery of the summons and complaint is known as "service of process". Process can be served by delivering it directly to the defendant, leaving it at his home, or sending it to him

by certified mail. Service of process must be made within six months after the filing the complaint.

When the defendant is notified he has been sued, he must file an "answer". His answer may deny everything in the complaint, admit some of the plaintiff's claim and deny the rest, or admit most or all of the plaintiff's claim. If the defendant feels that he is the injured party, he might answer the plaintiff's suit with a lawsuit of his own, called a "counterclaim". Sometimes a plaintiff or defendant may have a claim, ancillary to the main lawsuit against a co-plaintiff or a co-defendant; this claim is stated in a "cross-claim". The parties to any lawsuit can challenge each other's pleadings by means of "motions". For example, the defendant might file a motion to dismiss the complaint because the complaint does not show that the plaintiff is entitled to relief. When the complaint or answer is vague, the opposing party can file a motion to make the complaint or answer definite. If a pleading contains irrelevant material, the opposing party can file a motion asking that such material be removed. The Rules of Civil Procedure permit the parties to a lawsuit to preserve the testimony of potential witnesses, and to obtain information or evidence from each other through various methods known collectively as "discovery". The purpose of discovery is to permit all parties to prepare their cases well. "Depositions" may be taken from parties or witnesses, when a party, or a witness, is questioned under oath, and his answers are recorded by a court reporter. The whole proceeding, questions and answers, is often transcribed into a typewritten form. A party may be compelled to answer "interrogations"(written questions propounded by the other party). A party may compel another party to allow the inspection of evidence and other items. When physical or mental condition is an issue in a case, a party may request the court to order a medical examination. The parties may be required to make various admissions (disclosures) important to the case.

Text 2

Civil Proceedings in the UK

Civil law is concerned mostly with disputes between individuals or corporate bodies. Action is taken by the aggrieved party. Most claims are initiated by the use of a claim form, which functions as a summons. The claim form can be used for different types of claim, for example for specified or unspecified monetary sums, or for the claimant to ask the court to make an order. Once a claim has been filed with a court, a copy is served on the defendant with a response pack inviting them to either admit the claim, using a form of admission, or to defend it, using a form of defence. The response pack also contains an acknowledgement of service form to confirm receipt of the claim, and a counterclaim form for the defendant to use if they wish to claim against the claimant. A defendant must respond within 14 days of service of the particulars of the claim. The defendant may be able to get a time extension for filing a reply on defence by using the part of the acknowledgement of service form which states an intention to defend the claim. If a defendant does not reply to the claim, the claimant may obtain a default judgment. The court will award judgment in his favour without the trial. If a defendant wishes to defend the claim, but he has no real defence to it, the court may decide the claim without a trial by giving summary judgment. The court may give summary judgment against the claimant if it appears that his claim has no reasonable prospect of succeeding. Successful actions taken in the civil courts can result in damages being awarded to the person pursuing the claim. The amount being awarded varies according to the circumstances of each case.

Civil Disputes in England and Wales

Civil justice in England and Wales is administered mainly by the county courts and the High Court, with the High Court handling the more substantial and complex cases. In Scotland, the

bulk of civil business is handled in the sheriff court.

All cases concerning goods, property, debt repayment, breach of contract, are subject to Civil Procedure Rules. The Rules, which came into force in 1999 in England and Wales, made radical changes to civil process in the County Court and the High Court.

The judge performs the role of case manager. The court sets a timetable for litigation, with the parties being under an obligation to the court to adhere to timescales which control the progress of the case. Procedure rules are supplemented by detailed instructions made by the judge which support the rules, known as practice directions. Cases must be proved on the basis of balance of probabilities. Probability that the defendant is liable must be more than 50 per cent.

Most civil disputes do not go to court at all, and most of those which do, do not reach a trial. Many are dealt with through statutory complaints procedure, or through mediation and negotiation. Arbitration is also common in commercial and building disputes. Ombudsmen have the power to determine complaints in the public sector and, on a voluntary basis, in some private sector activities – for example, banking, insurance and pensions.

A large number of tribunals exist, most dealing with cases that involve the rights of private citizens against decisions of the state in areas such as social security, income tax, mental health and employment. Tribunals in England and Wales deal with over one million cases a year.

Text 3

Legal Aid

Legal aid helps with the costs of legal advice for people who cannot afford it. If you need help with the costs of legal advice, you can apply for legal aid. Whether you will receive it will depend on:

- the type of legal problem you have;
- your income (how much you earn) and how much capital (money, property and belongings) you have – called “financial eligibility”; and

• whether there is a reasonable chance of winning your case and whether it is worth the time and money needed to win.

For most cases, you must be "financially eligible" to receive legal aid. This means that to decide whether you can receive legal aid, we will look at:

• your disposable income (money you have left after paying all your living expenses); and

•your disposable capital (money, investments or property that you could use or sell to pay for legal help).

In most cases, we will also take into account your husband, wife or partner's disposable income and capital.

You will not be financially eligible if:

• your gross income (income before tax) was more than £2,435 in the last month; or

• you have more than £8,000 disposable capital.

If neither of these apply to you, we will still have to look at your finances, and the type of case you have, before deciding whether you are financially eligible.

If you're not eligible for legal aid, but you're still worried about how to pay for legal advice or representation, there are other options:

• a legal advice or law centre, which may give you free advice;

• a conditional-fee ("no-win, no-fee") agreement;

• legal-expenses insurance to pay for your legal costs; or

• help from your (or your partner's) trade union.

For more information about these options, see the CLS Direct leaflet "No-win, No-fee Actions", available at *www.clsdirect.org.uk*.

Т е м а 2. **Criminal Proceedings in the USA and the UK**

П л а н

1 . Г р а м а т и к а . Узгодження часів.
2 . Н а в ч а л ь н і т е к с т и .

Text 1

Criminal Proceedings in the USA

There are four common ways to begin a criminal case: the filing of a complaint by a private citizen; the return of an indictment by a grand jury; in certain cases, a proper arrest without a warrant, followed by the filing of a complaint; and the issuance of a summons or citation. A criminal case can begin when a person goes to court and files a complaint that another person has committed an offence. The complaint is followed by an arrest warrant or a summons which is served on the defendant by a peace officer. The arrest or service of summons constitutes service of process which, as in civil cases, gives the accused notice of the case against him. The complaint in a criminal case is a statement of the essential facts constituting the crime charged. It must designate the statute or ordinance which the accused is alleged to have violated. A warrant is executed by arresting the defendant and taking him into custody. An officer can issue a summons instead of arrest if it appears the defendant will come to court without being arrested. A summons tells the defendant when and where he must appear in court, and is delivered to the defendant without placing him under arrest. A criminal case can begin with an indictment. Like a complaint, an indictment is an accusation. In general, indictments are accusations of felonious conduct against persons who have already been arrested and referred to the grand jury by a municipal or county court through a process called “preliminary hearing”. Grand juries, however, do not have to wait for cases to be referred, but can make direct indictments. When this is done, the indictment begins the case.

After the accused is indicted, he is brought into court and arraigned. "Arraignment" consists of reading the indictment to him or telling him the nature of the charge, making sure he has a copy of the indictment, and asking him to make a plea to the indictment. If the accused has no attorney, the court must inform him that he has a right to an attorney, and a right to have an attorney provided at state expense if he cannot afford one. He must also be informed of his right to bail, and his right to remain silent. This "reading the rights" must also be done at other stages of the proceedings against the accused, including at the time of his arrest and at the time of the preliminary hearing. There are several pleas the accused can make. He can plead "not guilty", which means that he denies the charge against him. He can plead "not guilty by reason of insanity". This means that while he may have done the criminal act, he is not subject to criminal liability because of a mental disease or mental defect. He can plead "no contest", which means that he does not admit guilt but does admit the truth of the facts in the accusation (the no contest plea is sometimes used where the accused realizes that a guilty plea could be used against him in a civil suit). Finally, he can plead "guilty", which is an admission that he committed the crime, and has the same effect as a conviction following a trial. Arraignment is usually a separate proceeding in felony cases. In misdemeanour cases, arraignment usually takes place at the beginning of the trial itself, rather than as a separate proceeding before trial.

Text 2

Criminal Proceedings in the UK

A crime is defined as an offence against the laws of the state. Therefore it is the state that usually brings a person to trial. A private individual can also initiate criminal proceedings, but this is rarely done. Prior to 1986, the police were mainly responsible for prosecuting cases. Today the national prosecution service for England and Wales – Crown Prosecution Service (CPS) decide whether or not to prosecute people in court. The

police, investigating the alleged crime, may apprehend suspects and detain them in custody. Once an offender has been charged or summoned by the police, the "papers" are handed over to the CPS branch that handles cases for that police station. The CPS read the papers and decide whether or not there is enough evidence against the defendant and if it is in the public interest to bring that person to court. They can decide to go ahead with the prosecution, send the case back to the police for a caution or to take no further action. Criminal proceedings can be initiated by serving a summons – a formal order setting out the offence and requiring the accused to attend court. When people are charged with minor offences they are not arrested but summoned to appear in court and plead to charges against them. In more serious cases a warrant of arrest, a court document authorising the police to detain someone, is issued by a Magistrate's Court and executed by police officers. Once proceedings are initiated, the defendant comes before the court. The nature of the charge determines whether the trial is held in Magistrate's Court or a case is passed up to the Crown Court. In cases where defendants cannot afford their own lawyer, they are entitled under certain circumstances to assistance from legal aid provided by the Criminal Defence Service.

Presumption of Innocence

In the English system of justice the defendant is presumed innocent until proven guilty beyond a reasonable doubt. The burden of proof is on the prosecution. This means that the prosecution must prove to the judge or jury that the defendant is guilty, while the defendant is under no obligation to prove anything. If this proof is not achieved, a "not guilty" verdict must be returned by the magistrates in the magistrates' court or by the jury in the Crown Court. In Scotland, there is an additional possible verdict of "not proven" to those of "guilty" and "not guilty". The prosecution and defence of an accused person are still generally carried out by solicitors in the magistrates' court and by barristers in the Crown Court, although it is possible to defend oneself. An English trial is

therefore an adversarial contest between defence and prosecution. Each side can collect and present their own evidence and call witnesses in support of their case, and attack their opponent's by cross-examination. The rules of evidence and procedure which accompany this contest are complicated and must be strictly observed. The accused may remain silent throughout the trial, need not give evidence, and the right to silence does not imply guilt. The judge in the Crown Court and the magistrates in the Magistrates' court perform several functions. He or she directs the jury on the law, decides questions as to the admissibility of evidence, determines sentences if the accused is found guilty, and generally referees the proceedings. After the prosecution and the defence have concluded their cases, the magistrates in their court decide both the verdict and the sentence. In the Crown Court, it is the jury that delivers the verdict and the judge who pronounces the sentence.

Text 3

Bail

Bail System in England and Wales

When a person accused or under arrest for an offence appears before a magistrates' court, she or he may be granted bail and temporarily released. However, bail may be refused, for example if there are grounds for believing that the accused would fail to appear for trial or commit an offence. When bail is refused, a person will be kept in custody either in police cell or in prison. If bail is granted, the individual is set free until his or her later court appearance. The court may require certain assurances about conduct while on bail, such as residence and reporting to a police station, either from the accused or from someone willing to support him or her. The application for bail is a legal right, since the accused has not as yet been found guilty of any crime by a court, and there should be strong reasons for refusing it. It is argued that the magistrates appear too willing to listen to prosecution applications to refuse bail, rather than to genuine pleas to grant it. There is concern

that many people who are refused bail are, at their later trial, found not guilty or punished only by a fine. The system is thus keeping alleged criminals in custody during a lengthy period waiting for trial, when they do not eventually receive a gaol sentence. Yet many other people charged with minor offences are not arrested or even bailed. They are summoned to appear in court to hear and plead to the charges against them. There are suggestions that the summons procedure could be used more widely in order to avoid bail problems and prison overcrowding.

A Right to Bail in the USA

When a person or eighteen years old or older is arrested, he or she is usually entitled to be free pending trial provided he can satisfy the court that he will come to all court hearings. An arrested person who qualifies for bail must be given the opportunity to be free on bail as soon as possible. Different guarantees of appearance in court may be required. “Personal recognizance” is the defendant's written promise to appear. An “unsecured appearance bond” is defendant's promise to appear, coupled with his personal, unsecured promise to pay a certain amount of money if he does not appear. Bail may be money or property deposited as security for defendant's appearance in court. Bail can also be in the form of a kind of insurance policy, called a “bail bond.” The amount of the appearance bond or bail for any given misdemeanour is usually fixed by the court through a published bail schedule. In such cases, bail can be arranged at the police station without a hearing before a judge. In felony cases, the accused is usually held until the initial appearance, at which time the conditions of his release pending trial are set by the judge. These conditions may include personal recognizance, bail plus any other conditions the judge believes are required to insure defendant's appearance in court. It is important to remember that bail is not a substitute for trial. It was formerly true that some courts, particularly in traffic cases, allowed bail forfeitures and treated them the same as a plea of guilty, waiver of trial, and payment of fine. The Ohio Supreme Court's Rules of Superintendence prohibit this practice. If a person does not appear as

required by his personal recognizance, bond, or bail, he forfeits any deposit, is liable on any promise to pay bail, and is subject to re-arrest and detention until trial. Failure to appear on a personal recognizance not only subjects the accused to re-arrest and detention, but is a separate offence in itself.

I V с е м е с т р

Т е м а 3. **Trial**

П л а н

1 . Г р а м а т и к а . Модальні дієслова. Умовний спосіб
2 . Н а в ч а л ь н і т е к с т и .

Text 1

Trial Procedure in the US Courts

The main steps in a trial include: selection of a jury; opening statements by the attorneys; presentation of witnesses and evidence (the complaining party always goes first, and the defense next); closing statements by the attorneys; instructions by the judge to the jury; and deliberation and decision by the jury.

A trial is an adversary proceeding, that is, a contest between opponents. Each party presents evidence and argument. The judge's function is to control the contest as a neutral referee and to rule on questions of law. The jury’s function is to decide questions of fact.

Burden and Degree of Proof. The fact that a trial is a contest dictates the order in which its events proceed. The initial burden falls on the complaining party-the plaintiff in a civil case, or the state in a criminal case. The complaining party must first establish that party's case. If the complaining party fails to establish a case, there is nothing for the defendant to refute.

Different kinds of cases require different degrees of proof. In most civil cases, the winner is the party whose position is supported by the preponderance of the evidence. This means that the

decision must be given to the party whose favorable evidence carries greater weight and believability, even if the evidence is only a little more weighty and believable than the evidence favoring the other party. Plaintiffs who are seeking an injunction or other extraordinary remedy have a heavier burden of proof. They must establish their case by clear and convincing evidence.

In a criminal case, the state must prove the defendant's guilt beyond a reasonable doubt. This means that even if a preponderance of the evidence favors the state, and even if the state's evidence is convincing, the decision must be given to the defendant if a reasonable doubt of the defendant's guilt remains.

Text 2

The Right to a Jury Trial

The Constitution establishes and safeguards the right to a trial by jury in four ways: Article III establishes this right in federal criminal cases; Amendment V provides for grand juries that review complaints in criminal cases, hear the evidence of the prosecutor, and decide whether to issue an indictment that will bring the accused person to trial; Amendment VI guarantees in serious federal non-juvenile criminal cases the right to trial by a petit jury; and Amendment VII provides for a jury trial in civil cases where the amount in controversy exceeds $20. The exercise of this right is a major decision whether to “go bench”. The criminal defendant alone has the ability to waive the right to a jury. Only if the prosecution and the court consent, may a defendant have a waiver of trial by jurors. Jury trials are important because anticipated jury verdicts serve to guide plea bargaining and other decisions. In civil proceedings, however, at least one of the parties must specifically request a jury and be prepared to pay a fee; otherwise, a bench trial, also known as a court or a summary trial is held. In a bench trial, the judge makes both findings of fact and rulings of law. Beyond this, a court trial is essentially the same as a jury trial. Rules of evidence and methods of objection are identical for both proceedings. In all actions where the plaintiff does not have the right to a jury trial, the

court may authorize an advisory jury if a party requests it or the judge concludes independently that it is appropriate. The "verdict" the advisory jury renders is not binding on the judge. Advisory juries are typically used when the federal government is the sole defendant in a civil lawsuit and when the claims at issue are particularly sensitive. In addition, obscenity trials sometimes employ an advisory jury to determine whether the material in question is obscene based on community standards.

Going Bench - Choosing between a Jury or Non-Jury Trial

A defendant has a constitutional right to a jury trial. If the court determines that the waiver is intended as a stratagem to achieve an impermissible advantage, the waiver may be denied. For example, a defendant facing a joint trial with codefendants who elects to go with a bench trial may be denied. The most serious criminal charges are felonies, the lesser serious are misdemeanors, and the least serious are violations. Sometimes the defendant doesn't have a choice; if the charge is for a violation, there is no absolute jury trial right. A defendant who waives jury trial must do so in open court. The waiver must also be in writing. The defendant waving jury trial must be fully aware of the consequences of the waiver. Defense counsel should carefully go over with a defendant the pros and cons of jury waiver. The fact-finding function of the jury serves to resolve cases when prosecutor and defense cannot agree on the facts in order to form the basis for a plea bargain. If the evidence against a repeat offender is weak, the prosecutor may prefer to have a jury find the accused innocent rather than strike a bargain that would produce only a minimal sanction.

Despite the absence of a jury, bench trials are actually a faster, more efficient and often fairer way of determining the outcome of civil actions. Bench trials lack the often time-consuming formality of a jury trial, so the parties are better able to focus on the actual legal issues. In a bench trial, there is less need to protect the record with objections. At times, the judge may choose to accept evidence on a provisional basis (*de bene*), which allows it to be discarded in the future if necessary. The trial procedure with a bench

trial may be abbreviated. For example, an opening statement by the prosecutor is mandatory in a jury trial, and is permissible in a bench. Some attorneys will waive the opening statement at a bench trial: for the most part, this is inadvisable. The judge's verdict need not be immediate, but cannot be unduly delayed. One significant affect of foregoing a jury is that on appeal, the issues that can be raised by the defense are circumscribed.

Text 3

Selection of the Jury

The first step in the selection of the trial jury is the choosing of a "jury panel". When a person is selected for a jury panel he (or she) will be directed to report, along with other jury members, to a courtroom in which a case is to be heard once the jury is selected. The judge assigned to that case will tell him about the case and will introduce the attorneys and the people involved in the case. He will also take the oath, by which he promises to answer all questions truthfully. Following this explanation of the case and the taking of the oath, the judge and the lawyers will interview him and the other members of the panel (prospective jurors) to find out if he has any personal interest in it, or any feelings that might make it hard for him to be impartial. This process of choosing jurors is called *Voir Dire*, the phrase meaning "to speak the truth"**.**

Many of the questions the judge and each of the attorneys ask a person during *Vior Dire* may seem very personal to him, but he would answer them completely and honestly. The lawyers are trying to make sure that members of the jury do not have past experiences which might prevent them from making an impartial decision.

During *Voir Dire* the attorneys may ask the judge to excuse any member of the panel from sitting on the jury for this particular case. This is called challenging a juror**.** There are two types of challenges. The first is called a challenge for cause, which means that the lawyer has a specific reason for thinking that the juror would not be able to be impartial. There is no limit on the number of

the panel members that the lawyers may have excused for cause.

The second type of challenge is called a peremptory challenge, which means that the lawyer does not have to state the reason for asking that the juror be excused. Like challenges for cause, peremptory challenges are designed to allow lawyers to do their best to assure that their clients will have a fair trial. Unlike challenges for cause, however, the number of peremptory challenges is limited.

Those jurors who have not been challenged become the jury for the case. Depending on the kind of the case, there will be either six or twelve jurors. The judge may also allow selection of one or more alternative jurors, who will serve if one of the jurors is unable to do so because of illness or some other reason.

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. By serving on a jury, then, you are helping to guarantee one of the most important freedoms.

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 country 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 illness that would interfere with their ability to do a good job, would suffer great jury service 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.

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.

Т е м а 4. **The Work of the Judge and the Jury**

П л а н

1 . Г р а м а т и к а . Безособові форми дієслова: інфінітив, герундій, дієприкметник. Інфінітивні, герундіальні і дієприкметникові звороти.

2 . Н а в ч а л ь н і т е к с т и .

Text 1

Teamwork of the Judge and the Jury

The protection of constitutional rights and pursuit of justice is largely achieved through the teamwork of judge and jury. The judge presides over legal matters brought in court to play the part of an unbiased party whose primary job is to see to it that both sides are allowed to present their cases as fully as possible within the confines of the law. The judge is the arbiter of the law. The judge controls the time when court convenes and adjourns, and the length of a recess. The judge rules on many motions and objections of the prosecutor and of the defense attorney. In some jurisdictions the judge is permitted to ask substantive questions to the witnesses and also to comment to the jury on the credibility of the evidence. The trial judge gives preliminary instructions to the impaneled jury on the pertinent law prior to the trial and deliberation. The judge sentences a guilty defendant in a criminal case. Although judges have broad discretion

during the trials, their rulings must not be arbitrary or unfair. Also, the judge must not prejudice the jury against any of the parties.

Common sense and the willingness to pay attention are the only qualifications needed to be a successful juror. A juror's job is to consider the evidence presented during the trial and to decide what the truth is in that particular case. In some instances jurors may be allowed to take notes, or ask questions. In lawsuits and civil disputes the jurors will either decide for the defendant or the plaintiff. Additionally, the jury set any financial damage amounts that are to be paid to the either side. A jury in a criminal case does far more than decide issues of fact to render a verdict of guilty or innocent. It has the power to extend mercy where mercy is called for, and to mete out individualized justice. It has the power to nullify and acquit.

The Man in Court

Only when the facts make out a case do the jury have any function. Then it is for them to find out whether the facts are as the plaintiff claims them to be or as the defendant. The jury are usually puzzled and do not understand the distinction. In certain cases the judge determines both the facts and the law and decides the whole matter. In those cases, and in what is known as equity, there are no jury, but a judge may always ask for a jury if he wishes one to determine the facts. A jury is supposed to be advantageous to the defendant in a criminal action and to the plaintiff in a civil action. The jury decides whether the defendant is guilty or innocent as to each offense charged. If the judge so instructs, the jury may find the defendant guilty of a less serious offense than the one charged. If a defendant is convicted, sentencing is the responsibility of the judge. “One judge is better than twelve,” says the advocate of the non-jury system. “Law is a technical thing and you can not put a technical case plainly enough so that twelve men could thoroughly understand it.”

A discussion of the jury system is not in place. The jurymen have already been summoned and are in court and until the structure of the law is changed they will remain. They are ready to try any case that may come before them. The judge feels a sense of relief at not having to pass upon the facts. Because of his importance, the presiding judge must be present in court from the opening of the trial until its close and must be easily accessible during jury trials

while the jury is deliberating on its verdict. The law being laid down, all that remains for him to do is to see that the facts are fairly and plainly presented to the jury, that both sides conduct the case in a reasonable manner and that the trial be as open-minded as possible.

Text 2

Jury Instructions

Jury instructions are the set of legal rules that jurors should follow when the jury is deciding a civil or criminal case. Jury instructions are given to the jury by the judge, who usually reads them aloud to the jury. These instructions are usually standardized instructions and include such things as how to evaluate the evidence, the standard proof required (beyond a reasonable doubt), the elements of each charge that has to be proved and some guidelines on how to conduct deliberations. Here is an extract from the instruction given to the jury by the judge: "Members of the Jury: Your part in the administration of justice is very important. The parties in this case have come into this court for a trial on issues that have developed and exist between them. It is our duty – mine as judge, and yours as jurors – to see that all parties get a full and fair trial. You have been chosen and sworn as jurors to try the issues of fact presented in this case. You are to perform this duty without bias or prejudice to any party. The law does not permit jurors to be governed by conjecture, surmise, speculation, prejudice, or public opinion in these cases. The parties to this action expect that you will carefully and impartially consider all the evidence in the case and that you will carefully follow the law as stated to you by the Court". If there is a dispute as to what law applies to the case, the judge will decide what instructions to give. The jury is required to decide the case relying only on the evidence presented at trial, reasonable inferences drawn from the evidence and the applicable law. The jury is not allowed to conduct an extra investigation, or consult other sources or persons. The charge to the jury may take a few minutes, or it may take hours, or even days, in complicated cases. Forty-eight

states (Texas and West Virginia are the exceptions) have a basic set of instructions, usually called "pattern jury instructions", which provide the framework for the charge to the jury; sometimes, only names and circumstances have to be filled in for a particular case. Often they are much more complex, although certain elements frequently recur. For instance, if a criminal defendant chooses not to testify, the jury will be instructed not to draw any conclusions from that decision.

The Jury Instructions in the US Courts

Members of the Jury: Now that you have heard all of the evidence, it becomes my responsibility to instruct, or charge you, concerning the law that applies to this case. It is the Judge's duty to consider, determine and explain the rules of law that apply in a particular case. It is the Jury's responsibility and duty to consider and determine the facts of the case, that is, what the Jury believes to be the true facts from among all of the evidence in the case. I have no right to tell you which facts are established by the testimony and any exhibits. You, and only you, are the judges of the facts. It is your duty as jurors to accept and follow the law as contained in these instructions, and to apply that law to the facts that you believe have been proved from all of the evidence in the case. Each instruction is as important as any other. You are not to single out one statement or instruction alone as stating the law and ignore the other instructions or parts of instructions. You are to consider and apply these instructions together as a whole and you are to regard each instruction in the light of all others. Any personal opinion which you, or any of you, may have as to facts not established by the evidence in this case cannot properly be considered by you as a basis for your verdict. As individuals you may believe that certain facts existed, but as jurors sworn to try this case and to render a true verdict on the law and the evidence, you can act only upon the evidence which has been properly introduced to you at this trial. You cannot speculate as to what may have happened in the absence of evidence on a given point. If you have any personal opinion as to

what the law is, or ought to be, you must put that opinion aside and accept and apply the law as it is. In performing your duties as jurors you must not permit yourself to be influenced or swayed by sympathy, bias, prejudice or favour as to any party. All parties expect that you will carefully and impartially consider all of the evidence, accept and follow the law as contained in these instructions, and reach a just verdict, regardless of the consequences.

Text 3

Jury Verdict

After receiving the instructions and hearing the final arguments, the jury retires to the jury room to begin deliberating. In most states the first order of business is to elect one of the jurors as the foreperson or presiding juror. This person's role is to preside over discussions and votes of the jurors, and often to deliver the verdict. The bailiff's job is to ensure that no one communicates with the jury during deliberations. In some states, the jury may take the exhibits introduced into the record and the judge's instructions to the jury room. Sometimes the jury will have a question about the evidence or the judge's instructions. If this happens, the jury will give a note to the bailiff to take to the judge. The judge may respond to the note, or may call the jury back into the courtroom for further instructions or to have portions of the transcript read to them. Of course, any communication between the judge and jury should be in the presence of lawyers for each side or with their knowledge. Usually the court provides the jury with written forms of all possible verdicts, so that when a decision is reached, the jury has only to choose the proper verdict form. In most instances, the verdict in a criminal case must be unanimous. In some states a less than unanimous decision is permitted in civil cases. All federal cases require a unanimous decision. If the jury cannot come to a decision by the end of the day, the jurors may be sequestered, or housed in a hotel and secluded from all contact with other people, newspapers and news reports. In most cases, though, the jury will be allowed to go home at night. The judge will instruct jurors not to read or view

reports of the case in the news. Nor should they consider or discuss the case while outside of the jury room. If the jurors cannot agree on a verdict, a hung jury results, leading to a mistrial. The case is not decided, and it may be tried again at a later date before a new jury. Or the plaintiff or government may decide not to pursue the case further and there will be no subsequent trial.

Verdict means 'true declaration'. A true declaration is a verdict based only on the evidence presented by the parties and the rules of law laid down by the judge. The jury's verdict is usually final. When the members of the jury reach a decision, they return to the courtroom and their verdict is announced in open court, often by the jury foreman. At this time either the prosecutor or the defense attorney often asks that the jury be polled – that is, that each juror be asked individually if the general verdict actually reflects his or her own opinion. The purpose is to determine whether each juror supports the verdict or whether he or she is just yielding to group pressure. After the verdict is announced, or the jury is polled, the jury is dismissed. If the jury's verdict is 'not guilty', the defendant is discharged on the spot and is free to leave the courtroom. The trial is over. If it is a guilty verdict, the judge may continue bail or incarcerate the defendant while awaiting the presentence report: a report prepared by a probation officer on the defendant's background and record which will be used in determining sentence. If the jury becomes deadlocked and cannot reach a verdict, it may report that fact to the judge. In such an event the judge may insist that the jury continue its effort to reach a verdict. Or, if the judge is convinced that the jury is hopelessly deadlocked, he or she may dismiss the jury and call for a new trial. Research indicates that most juries dealing with criminal cases make their decisions quite quickly. Almost all juries take a vote soon after they retire to their room in order to see how divided, or united, they are. In thirty percent of the cases it takes only one vote to reach a unanimous decision. In ninety percent of the remainder, the majority on the first ballot eventually wins out. Hung juries – those in which no verdict can be reached – tend to occur only when a large minority existed on the first ballot.

ЛЕКСИКО-ГРАМАТИЧНІ ТАБЛИЦІ

І. Засоби словотворення: конверсія, словоскладання, афіксація

Засоби словотворення	Приклади
Конверсія – це утворювання нового слова з існуючого без зміни його форми	to act – діяти act – дія to conduct – поводити себе conduct – поведінка to force – примушувати force – сила
Словоскладання – це складання двох слів або більше в одне	lawsuit – позов slave-trading – работоргівля copyright – авторське право
Афіксація – це приєднання до основи слова суфіксів та префіксів	punishment – кара, покарання to imprison – ув'язнювати accusation – звинувачення immediately – безпосередньо invariable – незмінний

ІІ. Семантичні значення деяких словотворчих елементів

А) с у ф і к с и

№	Суфікс	Частини мови		
		що виражає	приклад	переклад
І м е н н и к				
1	*2*	*3*	*4*	*5*
1	***-ion***	процес, назва дії,	protection	Захист
2	***-ation*** ***-tion***	наслідок дії	investigation negotiation	слідство переговори
3	***- ment***		confinement agreement	ув'язнення угода
4	***-er*** ***-or***	діюча особа	offender governor	правопорушник губернатор

Продовження

1	*2*	*3*	*4*	*5*
5	***-ty*** ***-ity***	якість, стан, дія	property responsibility	власність відповідальність
6	***-ence*** ***ance***	наявність якості, стан	existence importance	існування важливість
7	***-ant*** ***-al***	діюча особа, професія, якість, стан	defendant official	підсудний, відповідач посадова особа
8	***-ness***	наявність якості	recklessness	необачність
9	***-ist***	професія, стан	economist	економіст
10	***-dom***	назва дії	freedom	свобода
11	***-age***	стан	marriage	шлюб
12	***-sion***	назва дії	decision	рішення

П р и к м е т н и к и

1	***-al***	наявність якості	criminal professional	злочинний професійний
2	***-able*** ***-ible***		reliable responsible	надійний відповідальний
3	***-ant*** ***-ent***		important sufficient	важливий достатній
4	***-ary*** ***-ory***		customary statutory	звичайний встановлений законом
5	***-ive***		effective	ефективний
6	***-ful***		wrongful useful	злочинний корисний
7	***-ous***		famous	відомий, славетний
8	***-less***	відсутність якості	careless useless	недбалий некорисний
9	***-ic***	якість	specific	особливий

1	*2*	*3*	*4*	*5*
		П р и с л і в н и к и		
1	***-ly***	ознака дії або якості	permanently	постійно
2	***-less***	відсутність якості	regardless	незважаючи на
		Д і є с л о в а		
1	***-ize***	процес	to realize	здійснювати
2	***-fy***	дія	to justify	виправдовувати
3	***-en***	дія	to strengthen	посилювати
		Б) п р е ф і к с и		
	Префікс	Частина мови	Приклад	Переклад
1	***dis-***	дієслово, іменник	disapprove disbalance	не схвалювати дисбаланс
2	***trans-***	дієслово	transform	змінювати
3	***un-***	дієприкметник	unfounded	не заснований
4	***en-***	дієслово	endanger	наражати на ризик
5	***inter-***	lієслово, прикметник, іменник	interact interstate interference	взаємодіяти міждержавний втручання
6	***in-***	прикметник	infrequent	нечастий
7	***im-***		impossible	неможливий
8	***il-***		illegal	незаконний
9	***multi-***		multivolume	багатотомний
10	***co-***	іменник, дієслово	cooperation coexist	співпраця співіснувати
11	***pre-***	прикметник	pretrial	досудовий
12	***re-***	іменник дієслово	review reeducate	перегляд перевиховувати
13	***self-***	іменник	self-defence	самооборона
14	***ex-***	іменник	exchange	обмін
15	***non-***	прикметник	nondurable	недовговічний

III. Переклад іменників у функції означення

Перекладається	Іменник+прикметник
Прикметником	trade transaction – торговельна угода state organ – державний орган marriage and family relations – шлюбно-сімейні відносини labor relations – трудові відносини
Іменником у родовому відмінку	free trade policy – політика вільної торгівлі arbitration board decision – рішення арбітражної комісії
Іменником з прийменником	trademark right – право на торговельний знак

IV. Утворення форм дієслова в дійсному стані (Active Voice)

	Indefinite	Continuous	Perfect
	to try	*to be trying*	*to have tried*
Present	The court ***tries*** a case – Суд розглядає справу.	The court ***is trying*** this case now – Суд розглядає справу зараз.	The court ***has*** already ***tried*** this case – Суд вже розглянув справу.
Past	The court ***tried*** this case yesterday – Суд розглядав справу вчора.	The court ***was trying*** this case at 11 o'clock yesterday – Суд розглядав справу об 11-й вчора.	The court ***had tried*** this case by 3 o'clock yesterday – Суд розглянув справу до 3-ї години вчора
Future	The court ***will try*** this case tomorrow – Суд розглядатиме справу завтра	The court ***will be trying*** this case at 11 o'clock tomorrow – Суд розглядатиме справу об 11-й годині завтра.	The court ***will have tried*** this case by 3 o'clock tomorrow – Суд розгляне справу до 3-ї години завтра.

V. Часи групи Perfect Continuous

Present Perfect Continuous	Past Perfect Continuous	Future Perfect Continuous
We *have been waiting* for the beginning of the trial for 30 minutes – Ми чекаємо початку судової справи (вже) 30 хвилин.	We *had been waiting* for the beginning of the trial for 30 minutes when the judge came – Ми чекали початку судової справи (вже) 30 хвилин, коли прийшов суддя.	We *shall have been waiting* for the beginning of the trial for 30 minutes when the judge come – Ми будемо чекати початку судової справи 30 хвилин, коли прийде суддя.

VI. Утворення форм дієслова в пасивному стані (Passive Voice)

	Indefinite	Continuous	Perfect
	to be tried	*to be being tried*	*to have been tried*
Present	This case *is tried* at the court – Ця справа розглядається судом.	This case *is being tried* at the court now – Ця справа розглядається судом завтра.	This case *has* already *been tried* at the court – Ця справа вже була розглянута.
Past	This case *was tried* at the court two days ago – Ця справа розглядалась 2 дні тому.	This case *was being tried* at the court from 2 till 3 o'clock yesterday – Ця справа розглядалась у суді з 2-х до 3-х годин вчора.	This case *had been tried* by 4 o'clock yesterday – Ця справа була розглянута до 4-х годин вчора.
Future	This case *will be tried* in two hours – Ця справа розглядатиметься через 2 години.	–	This case *will have been tried* when he comes – Ця справа буде вже розглянута, коли він прийде.

VII. Модальні дієслова та їх еквіваленти

Модальні дієслова	Еквіваленти	Приклад	Переклад
1	*2*	*3*	*4*
Can (could) могти, бути в змозі (фізична можливість)		Much ***can*** be done in the field of strengthening economic relations.	Багато може бути зроблено в галузі зміцнення економічних відносин.
	to be able to	States *cannot* ***(are not able to)*** avoid disputes.	Держави не можуть уникнути суперечок.
May (might) могти (мати можливість, мати дозвіл)		States ***may*** regulate their national trade without any regulations.	Держави можуть регулювати внутрішню торгівлю без жодних приписів.
	to be allowed to	Citizens *may* ***(are allowed to)*** exercise their free use of nature objects.	Громадяни можуть здійснювати безоплатне використання природничих об'єктів.
Must – повинен		The procurator ***must*** ensure the strict observance of the law.	Прокурор повинен забезпечити суворе дотримання закону.
	to have to – повинен, змушений	He ***had to*** lodge his protest in a higher court.	Він повинен був подати протест у вищий суд.
	to be to – повинен	The sentence ***is to be*** just.	Вирок повинен бути справедливим.

VIII. Функції інфінітива та інфінітивних зворотів

Інфінітив у функції обставини мети	(in order) *to settle* a dispute	для того, щоб врегулювати спір
Інфінітив у функції означення	the dispute *to be settled* by the arbitration	Спір, який має бути вирішений арбітражем
Складний додаток	They wanted their property *to be protected.*	Вони хотіли, щоб їхня власність була захищена.
Складний підмет	Roman law seemed *to be lost or forgotten.*	Здавалося, що римське право було загублене чи забуте.

IX. Функції прислівників та прислівникових зворотів

P a r t i c i p l e I

Член речення	Перекладається	Приклад
Означення	Дієприкметником або підрядним означенням	*presiding* judge – головуючий суддя, суддя, що головує *being* responsible for the arrest – будучи відповідальним за арешт
Обставини	Дієприслівником	*Defining* robbery, the Criminal Code… – визначаючи пограбування, Кримінальний кодекс…

Член речення	Перекладається	Приклад
Означення	Дієприкметником	the *established* guilt – встановлена провина
Обставини	Підрядним реченням обставини	When *asked* the accused pleaded guilty – Коли його запитали, обвинувачений визнав свою провину.

X. Форми герундія та їх переклад

Група	Active	Passive
Indefinite	***discussing*** They adopted the decision after its *discussing* – Вони прийняли рішення після його *обговорення*.	***being discussed*** The decision cannot be adopted without *being discussed* – Рішення не може бути прийняте без *обговорення*.
Perfect	***having discussed*** We remember *having discussed* this question – Ми пам'ятаємо, що ми обговорювали це питання. *Having discussed* this question we… – Обговоривши це питання, ми…	***having been discussed*** We remember this question *having been discussed* by all the members – Ми пам'ятаємо, що це питання *обговорювалося* всіма членами.

З М І С Т

Навчальне видання

МАТЕРІАЛИ ДО ПРАКТИЧНИХ ЗАНЯТЬ

З НАВЧАЛЬНОЇ ДИСЦИПЛІНИ

“ІНОЗЕМНА МОВА (АНГЛІЙСЬКА)”

(галузь знань 0304 “Право”,
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