

**Завдання до практичних занять  
з англійської мови**

**для студентів 2 курсу**

**2004**

Завдання до практичних занять з англійської мови: для студентів 2 курсу / Уклад. Сергєєва Г.А..- Х.: Нац. юрид. акад. України, 2004.- 62 с.

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## ЗАГАЛЬНІ ПОЛОЖЕННЯ

Сучасна правнича наука є однією з найбільш динамічних та стрімко прогресуючих галузей суспільних наук. Реалії сьогодення, головною з яких є зміцнення зв'язків з міжнародною спільнотою, поставили перед вищими навчальними закладами України важливе завдання – готувати фахівців з високим рівнем володіння англійською мовою, яка є основною мовою міжнародного спілкування.

Пропоновані “Завдання до практичних занять” призначені для студентів-юристів другого року навчання і відповідають вимогам навчальної програми з дисципліни “Іноземна мова” для юридичних вищих навчальних закладів.

Мета завдань – допомогти студентам самостійно оволодіти спеціальною лексикою в межах тематики, передбаченої для вивчення на цьому етапі навчання, сформувати навички читання, необхідні для подальшої самостійної роботи з англійською літературою з фаху.

Правова лексика вводиться тематично і закріплюється в різноманітних вправах, спрямованих на активне та продуктивне оволодіння лексичним матеріалом. Використана методика навчання читанню літератури з фаху спрямована на розвиток навичок розуміння прочитаного, уміння аналізувати текстовий матеріал та вилучати з нього лише необхідну інформацію, не вдаючись до детального перекладу. Така методика дає можливість сформувати основні навички самостійної роботи зі спеціальною англійською літературою.

“Завдання ...” складаються з 6-ти структурно ідентичних частин. Кожне заняття починається з передтекстового завдання, яке виконується до початку роботи над текстом і спрямоване на загальне ознайомлення з темою заняття, активізацію вже відомого лексичного та фактичного матеріалу, пов'язаного з тематикою заняття, а також створює необхідність вивчення нового мовного матеріалу під час роботи з текстом. Далі подано вправи, виконання яких передбачає безпосередню роботу з текстом заняття. Метою виконання цих вправ є розвиток навичок різних видів читання: переглядово-

го, пошукового та вивчаючого. Наступна частина уроку містить різноманітні вправи на засвоєння нового лексичного матеріалу (правничої термінології), ефективність оволодіння яким забезпечується його повторенням як у межах одного заняття, так і під час виконання вправ наступних занять.

Інформаційною та лексичною основою, на якій будуються всі мовні навчальні дії, передбачені у вправах, є сучасні автентичні професійно орієнтовані тексти з юридичної літератури Великої Британії та США, адаптовані для студентів старших курсів юридичних факультетів.

“Завдання ...” містять чіткі та детальні вказівки до кожної вправи, які роз’яснюють, що і як треба робити у вправі та пояснюють, на відпрацювання яких мовних вмінь та навичок спрямоване її виконання. Правильне та сумлінне користування пропонованим виданням допоможе досягти поставленої мети.

## Unit 1. PROSECUTION

### Step 1. Pre-reading task:

1. The text below contains information about the national body performing the prosecution of offences in the UK. Before you read, decide what kind of information you think it might contain.

### Step 2. Reading tasks:

*First Reading: understanding the general content of the text.*

2. Read the text quickly, don't translate it but just try to understand what information it gives in general. Match headings a-f (the main point of the paragraph) with paragraphs 1-4. There are some headings you don't need:

- a. prosecution of cases of serious fraud
- b. prosecutor as a decision-maker
- c. creation of the Crown Prosecution Service
- d. duties of the DPP and a Crown Prosecutor
- e. officials of the Crown Prosecution Service
- f. prosecutor's role at trial

### **Director of Public Prosecutions and Crown Prosecution Service**

1 Up until 1985, no national system for **the prosecution of offences** existed, prosecutions often being **handled by the police** – by prosecuting solicitors departments, or by **solicitor acting for the police**. The Director of Public Prosecutions had a **supervisory and advisory role** in respect of certain **crimes**. The Royal Commission on **Criminal Procedure** in 1980 concluded that **a system of public prosecutions** independent of the police was fundamental for **the proper and effective functioning of the prosecution process**. The response of the government was the passage of the Prosecution of Offences Act 1985, which created a

new Crown Prosecution Service and separated **the investigation stage** from **the prosecution stage**.

2 The Crown Prosecution Service is a national organization with 98 offices located in regional centers throughout England and Wales. Crown Prosecutors are **legally qualified, aided by support staff**, and have similar **rights of audience** as solicitors have. The Lord Chancellor has the power to extend these rights of audience. The Director of Public Prosecutions (DPP) is a barrister or solicitor of not less than ten years' **standing** appointed by the Attorney General (Prosecution of Offences Act 1979, s.1). The Director is **the head** of the Crown Prosecution Service. There are also Assistant Directors, who must be barristers or solicitors of not less than seven years' standing (s.1 (2)).

3 Section 3 of the 1985 Act defines the following **duties** of the Director of Public Prosecutions:

- **to take over** the conduct of all criminal proceedings instituted **on behalf of** a police force (whether by a member of that force or some other person);
- **to institute and conduct criminal proceedings** where **the importance or difficulty of the case** makes it appropriate that the Director should institute the proceedings;
- to take over binding over **proceedings brought by a police force**;
- **to give advice to** police forces on all **matters relating to criminal offences**;
- **to appear in certain appeals**.

Thus, the Director and the Crown Prosecution Service effectively **control the prosecution process**. The CPS makes the decision whether **to continue a case and bring it to court**. They don't control the process of investigation. That is a matter for the police, although the Crown Prosecution Service may **direct** that certain **inquiries** be made. After the Police have investigated crime and **passed the papers to** the CPS, a Crown Prosecutor carefully **reviews the papers** to decide whether **to start or continue a prosecution**. If the prosecutor thinks that there is enough evidence **to provide a "realistic prospect of conviction"**,

and that a prosecution is needed **in the public interest**, the case is then presented in the Magistrates' court where the CPS lawyer must **present the facts to the court** fairly. But, when cases go on to the Crown Court, the CPS **instructs a barrister**, or a **specialty qualified solicitor**, so then he or she can **represent the prosecution** for the CPS.

4 Mention should also be made of the Serious Fraud Office. Created by the Criminal Justice Act 1987 to assist in the investigation and prosecution of **cases of serious fraud**, it has **wide powers** that go beyond those normally **available to** the police and **prosecuting authorities**.

*Second Reading: reading for detail*

3. *Quickly scan the text above to find the following information.*

- a) three names of statutes;
- b) three names of the officials of the Crown Prosecution Service;
- c) the name of the official who appoints the DPP;
- d) the name of the agency created by the Criminal Justice Act 1987.

4. *Arrange these officials according to the principle of seniority. What requirements should the DPP meet to hold the office?*

The Director of Public Prosecutions, Crown Prosecutor, Assistant Director, the Attorney General.

5. *Read the text above carefully to decide if the following statements are **true** or **false**. Correct false statements.*

- a) This text describes the prosecution authority in the U.S.A.
- b) The Attorney General appoints the Director of Public Prosecutions.
- c) The Police investigate crimes and have responsibility to prosecute.
- d) The investigation stage is separated from the prosecution stage.



- e) CPS controls the process of investigation.
- f) The Serious Fraud Office investigates and prosecutes all serious crimes.
- g) The DPP cannot appear in appeals.
- h) The CPS lawyer must represent the prosecution in the Crown Court.

6. *Read the text again to answer the following questions.*

1. What is the CPS? Whom does it consist of? And who heads this organization?

2. What is the responsibility of the DPP and the Crown Prosecution Service?

3. Who had handled the prosecution before 1985? And what was the role of the CPS?

4. What were the reasons for creating the Crown Prosecution Service?

5. What are the main duties of the DPP and functions of the Crown Prosecutor?

7. *Write out of the text above (p.6) words and phrases in bold type and write their Ukrainian equivalents.*

8. *Find in the text above (p.6) the English equivalents for the following words and expressions. Reproduce the context in which they were used.*

- 1) призначати;
- 2) стаж роботи;
- 3) голова, керівник;
- 4) кримінальне (судове) переслідування злочинів;
- 5) здійснювати кримінальне переслідування;
- 6) система державного обвинувачення;
- 7) наглядова та консультативна роль;
- 8) належне та ефективне здійснення процесу кримінального переслідування;
- 9) здійснювати нагляд;

- 10) порушувати кримінальну справу;
- 11) вести кримінальну справу;
- 12) питання, які стосуються кримінальних злочинів;
- 13) наказати провести розслідування;
- 14) право виступати в суді;
- 15) подавати справу до суду;
- 16) доручати баристеру ведення справи; знайомити баристера з обставинами справи;
- 17) представляти обвинувачення.

9. Find the words in the text (p.6) that are derived from the same roots as the words given below. Translate them.

To prosecute, assistance, to serve, nation, offender, to supervise, to pass, to proceed, to criminalize, appellate, important, appearance, institution, to investigate, provision, to convict.

10. We could give the text below the headings “Prosecutor’s authority in the USA” or “The prosecutorial discretion in the USA”. Quickly skim the text to get an idea of the general content and choose the heading, which fits the content better. Explain your choice.

**The discretion of the prosecutor** is probably as broad as that of any **participant** in **the criminal justice system**. **The prosecutorial process** is really a series of decisions ranging from **the power of *nolle prosequi*** to the selection of specific **charges to be brought against the defendant** and to be presented to a grand jury or a judge at a preliminary hearing.

Just because a crime has been committed, it does not follow that there must necessarily be a **prosecution**. The police have concluded, based on their investigation and the **evidence obtained**, that an individual is guilty of a crime. Now, after **arresting and booking** that person, various decisions must be made by someone else as to what should be done next. The prosecutor, known as the **district attorney** or D.A., is that **decision-maker**. The prosecutor’s decisions involve whether or

not to move the case forward through **formal charges, seeking an indictment or filing an information**, and then on to the **pretrial motions** and other **stages of prosecution**. The prosecutor must decide first whether **to charge of a crime** or not and then, if so, which crime and how many **counts of the offense** to charge.

In some cases the **criminal process** begins with a **complaint** made directly to the **prosecutor's office**. If the **alleged criminal** is named by the **complainant**, the prosecutor may **seek an arrest warrant from a judge** and direct the police **to take the suspect into custody**. Then the charging decision stage follows where the suspect, after being taken into police custody, is charged with a crime by the prosecuting attorney and becomes a **defendant**.

Thus, the job of the prosecutor at this stage of the **criminal justice process** is mainly to translate the **factual evidence** brought by the police into a formal, legally correct **criminal charge**. Prosecutor also issues policies either in **oral directives** or by **memoranda** that may **state standards for determining whether evidence is admissible at trial**, the appropriate charges **to be pressed** in certain kinds of cases, or even **procedures and guidelines for plea-bargaining**.

*11. Study the following words and phrases in their context in the text above and match each one to the correct explanation from the list below.*

- |                            |               |                |
|----------------------------|---------------|----------------|
| a) discretion              | d) charge     | g) complaint   |
| b) power of nolle prosequi | e) evidence   | h) information |
| c) defendant               | f) indictment |                |

- 1) an official statement that someone may be guilty of a crime
- 2) an official written statement charging someone with a criminal offence
- 3) an allegation of a crime against another person
- 4) the ability and right to decide exactly what should be done in a particular situation
- 5) information that is used to prove that someone is guilty or not guilty

- 6) a decision not to initiate prosecution even with sufficient evidence to do so
- 7) the statement informing a magistrate of the offence in respect of which a warrant or summons is sought
- 8) the person who has been charged with a crime

*12. Read the text (Ex. 10) and write down Ukrainian equivalents for the words and expressions in bold type.*

*13. Find words in the text (Ex. 10), which have the similar meaning with the words below.*

Competence, wide, authority, to bring charges, official (adj.), the suspected criminal, different, to order, instructions.

*14. Search the text (Ex. 10) for the words with the opposite meaning.*

Defence, informal, to drop the charges, to finish, civil process, indirectly, to prosecute, improper.

### **Step 3. Post-reading task**

*15. The texts you've just read contain a lot of words and phrases, which are directly related to prosecution process. Scan the texts to find all the vocabulary relating to this theme and copy these words and phrases into your vocabulary. Use the words you know and new ones to write a short narrative "The Prosecutor's Office in Ukraine".*

## **Unit 2. PUNISHMENT**

### **Step 1. Pre-reading tasks:**

*1. Think about the subject of this Unit and try to decide in general:*

- What is the punishment?
- What is its role in a criminal justice system?
- Do you know any kinds of punishment? What are they?
- Write down all the words and expressions you can think of on the topic “*Punishment*”. Consult a dictionary to find their English equivalents if necessary.

## Step 2. Reading tasks:

2. *Skim the text (Ex.4) to continue your list by including other topic-related words from the text.*

3. *Scan the text (Ex.4) to find the following information:*

- a) four terms which refer to the goals of punishment
- b) six names of the kinds of punishment
- c) two terms which refer to the kinds of crimes

4. *Read the text and write down Ukrainian equivalents for the words and expressions in bold type.*

## Punishment

Punishment describes the imposition by some authority of a deprivation – usually painful – on a person who has violated a law, a rule or other norm. When the wrongdoer violates the criminal law of society it is resulted in a **formal process of accusation and proof** followed by **imposition of a sentence** by a designated official, usually a judge.

Because punishment is both painful and **guilt producing**, its application calls for a justification. In Western culture, four basic justifications have been given: **retribution, deterrence, rehabilitation and incapacitation**.

Most **penal historians** note a gradual trend over the last centuries towards more **lenient sentences** in Western countries. **Capital and corporal punishment**, widespread in the early 19<sup>th</sup> century, are seldom invoked by contemporary society. Indeed, in

the United States corporal punishment as such contradicts the 8<sup>th</sup> Amendment's restrictions on cruel and unusual punishment. Yet the rate of imprisonment in the United States appears to be growing. Furthermore, since the mid-1970s, **popular and professional sentiment** has taken a distinctly punitive turn and now tends to see retribution and incapacitation – rather than rehabilitation – as the goals of criminal punishment.

Criminal sentences ordinarily embrace four **basic modes of punishment**. In descending order of severity these are: **incarceration, community supervision, fine and restitution**. The **death penalty** in some countries is now possible only for certain types of **atrocious murders and treason**.

*5. Make sure you know the meanings of the words given below. Find the words with the same roots in the text above and write them out. Guess their meanings.*

To punish, to impose, to deprive, pain, to accuse, to apply, to justify, to deter, to rehabilitate, to retribute, to incapacitate, to restrict, to restitute.

*6. Which of the following words refer to: (a) purposes of punishment; (b) types of punishment. Arrange the words, which you put into the group (b), in descending order of severity.*

Rehabilitation, corporal punishment, treason, incapacitation, incarceration, death penalty, restitution, deterrence, murder, community supervision, retribution, fine.

*7. Complete the word combinations by writing an appropriate word in the space.*

... of accusation and proof; imposition of ...; a designated ...; lenient ...; capital ...; death ...; cruel and unusual ...; to violate ...; goals of ...; atrocious ...; rate of ...

*8. Find in the text above the English equivalents for the following*

*words and phrases:*

- 1) вирок по кримінальній справі;
- 2) покарання;
- 3) винесення вироку;
- 4) позбавлення;
- 5) порушувати закон;
- 6) правопорушник, злочинець;
- 7) призначена посадова особа;
- 8) підстава, обґрунтування;
- 9) застосування;
- 10) застосовувати покарання;
- 11) обмеження;
- 12) позбавлення волі, ув'язнення;
- 13) пов'язаний із застосуванням покарання, каральний;
- 14) жорстоке та незвичайне покарання;
- 15) кримінальне покарання;
- 16) суворість.

*9. In the text above search for and write out synonyms of the following words.*

Penalty, to break, law-breaker, charging, to apply, limitation, to increase, modern, purpose, brutal punishment, bodily, death penalty, moreover.

*10. Quickly skim the text to decide what its general idea is and think about the heading. Don't try to read the text in detail.*

\* \* \* \*

After the court has determined that the accused has broken the law, a punishment must be imposed. Decisions regarding sentencing convicted offenders are perhaps the most difficult task judges face. Judges make other important decisions, but most of them are pretty well constrained by law. In the area of sentencing, though, judges may exercise considerable discretion based on their

own philosophy of sentencing and personal attitudes towards the offenders or the offences. Criminal sentences can take a number of forms, including fines, probation and incarceration in jail or prison. And, of course, the death penalty is still available in most states of the USA.

Sentencing is designed to achieve at least the following four major goals:

1) Incapacitation, which refers to preventing an individual from committing further criminal acts by restraining him or her;

2) Deterrence, which generally refers to the prevention of criminal acts in the population at large by making examples of persons convicted of crimes. Thus, even if there is no need to restrain a particular offender by imprisonment, he or she still might receive a long prison term as a message to potential offenders, who might otherwise commit similar crimes;

3) Rehabilitation, which involves a sentence designed to provide treatment for conditions in the offender's attitudes, personality or general personal history that may have led to the criminal behavior;

4) Retribution as a goal of punishment is quite different from the other three, though a component of each. Incapacitation, deterrence and rehabilitation are future-oriented since they are designed to prevent additional crimes by an offender or others. Retribution or punishment, however, is focused on the past criminal behavior of the offender and is imposed to express condemnation of that behavior. Today retribution goal is sometimes called "just deserts" or "commensurate deserts", implying that it is an appropriate goal of our criminal justice system to make a criminal pay for a crime in proportion on the harm done.

All of these goals coexist in any single sentence. However, one or another may be predominant, so that a prison sentence may be primarily for treatment or primarily for incapacitation even though other goals, say deterrence and just deserts, are intended too.



11. Find in the text above the English equivalents for the following words and phrases:

- 1) обвинувачений;
- 2) засуджені злочинці;
- 3) винесення вироку, призначення покарання;
- 4) користуватися значною свободою дій, здійснювати право діяти на свій розсуд;
- 5) штраф;
- 6) ув'язнення;
- 7) позбавлення злочинця можливості вчиняти злочини;
- 8) стримування від вчинення злочинів (засобами залякування);
- 9) запобігання вчиненню злочинів;
- 10) перешкоджати особі вчиняти подальші злочини шляхом її ізолювання;
- 11) покарати осіб, засуджених за вчинення злочинів, щоб надати приклад іншим;
- 12) позбавляти злочинця волі шляхом ув'язнення;
- 13) отримати тривалий строк тюремного ув'язнення;
- 14) попередження потенційним злочинцям;
- 15) виправлення злочинця, реабілітація особистості злочинця;
- 16) призводити до злочинної поведінки;
- 17) висловлювати осуд.

12. In the previous text ("Punishment") search for synonyms of the underlined words and expressions from the text above (Ex.10).

13. What is the difference between the following groups of words? Match words from A and B to form true collocations (word combinations).

A: to impose, to make, to break, to convict, to exercise, to achieve, to prevent, to restrain, to receive, to commit, to provide, to lead to, to express

B: goals, law, a criminal, (criminal) behavior, an offender, a term, a crime, discretion, decision, treatment, punishment, a task

14. A. Explain the meaning of the words and expressions from the box. Complete the following text using these words and expressions.

B. Name the main purposes of punishment as mentioned in the text.

C. Give synonyms to the underlined words and word combinations.

<u>wrongdoer</u> ; misdeeds; deterrent; retribution; <u>death penalty</u> ; corporal punishment; rehabilitate; reform; barbaric; law-abiding; humane; crime doesn't pay; <u>correct</u> ;
--

What is the purpose of punishment? One purpose is obviously to (a) \_\_\_\_\_ the offender, to (b) \_\_\_\_\_ the offender's moral attitudes and anti-social behaviour and to (c) \_\_\_\_\_ him or her, which means to assist the offender to return to normal life as a useful member of the community.

Punishment can also be seen as a (d) \_\_\_\_\_ because it warns other people of what will happen if they are tempted to break the law and prevents them from doing so. However, the third goal of punishment lies, perhaps, in society's desire for (e) \_\_\_\_\_, which basically means revenge. In other words, don't we feel that a (f) \_\_\_\_\_ should suffer for his (g) \_\_\_\_\_?

The form of punishment should also be considered. On the one hand, some believe that we should "make the punishment fit the crime". Those who steal from others should be deprived of their own property to ensure that criminals are left in no doubt that (h) \_\_\_\_\_. For those who attack others (i) \_\_\_\_\_ should be used. Murderers should be subject to the principle "an eye for an eye and a tooth for a tooth" and automatically receive the (j) \_\_\_\_\_.

On the other hand, it is said that such views are unreasonable, cruel and (k) \_\_\_\_\_ and that we should show a more (l) \_\_\_\_\_ attitude to punishment and try to understand why a person commits a crime and how society has failed to enable

him to live a respectable, (m)\_\_\_\_\_ life.

15. *Quickly skim the text below to decide what each of the paragraphs is about in general and fill the gaps with the respective kinds of punishment (1-7) as quickly as you can. Choose from:*

- (a) Split sentence, shock probation and intermittent confinement
- (b) Community service
- (c) Death penalty
- (d) Probation
- (e) Fines
- (f) Restitution and victim compensation
- (g) Incarceration

### **Imposition of Sentences**

Today in the United States **offenders are subject to a variety of sentence options**, depending on the offense charged and proven, **the sentence guidelines**, which exist in the jurisdiction, and **plea bargains** and vagaries of **the sentencing decision**. Except when an offender is convicted of **a crime involving a mandatory sentence**, the judge has discretion **to select the type, the length and** sometimes certain **other conditions of a sentence**. There are such main types of **criminal sentences**:

(1)... is available in most states today for the most **serious crimes** such as murder. Death sentences require a separate hearing with jury deliberation and recommendation of life imprisonment or death for convicted capital offenders;

(2)... is the **confinement of a convicted criminal** in a state or federal **prison** or in **local jail**. Most sentenced prisoners serve their time in 1 of approximately 950 state prisons, usually called **correctional institutions**. Federal offenders are confined in 1 of 47 federal **facilities**, and those sentenced to less than 1 year are locked in 1 of the 3500 or so local jails that are administered by county or city agencies;

(3)... is a sentence to **local community supervision** by a **probation agency**. This is usually done by **suspending a sentence to confinement**, and the offender is subjected to **rules and regulations stated by the court**. **Probation** is the most **widely used sentence**;

(4)... are sentences that require the criminal **to serve a brief term in jail**, to “shock” him or her, or **to get the offender’s attention**. Then, after the time in jail, the offender is required to serve a term **on probation**. Sometimes, in **the intermittent sentence**, the offender is required **to follow probation rules** during the week and then spend weekends or holidays in jail;

(5)... is a sentence that requires the offender **to repay the victim** either by financial payments or services rendered;

(6)... is a sentence that requires the offender **to perform** a specified amount of **public service work**, such as collecting trash or performing odd jobs around the courthouse or in public parks, hospitals, etc. **Community service** requirements are often made part of **probation conditions**;

(7)... are more commonly imposed in **misdemeanor cases**, alone or combined with probation requirements, incarceration or **in lieu of** incarceration. But **fine** may be also imposed in some **felony cases**, such as **embezzlement**, **income tax evasion** and **corporate fraud**. Fine is **an economic penalty**, which requires the offender to pay a specified amount of money within a certain period of time. Sometimes **the law provides** that money from the payment of fines be used **to compensate victims**.

*16. Read the text again and write down Ukrainian equivalents for the words and expressions in bold type.*

*17. What do the underlined pronouns in these sentences refer to?*

1. It is available in most states for the most serious crimes. 2. They are subject to a variety of sentence options. 3. They are often made part of probation conditions. 4. They are imposed most frequently in misdemeanor cases. 5. It is the confinement of a convict in a prison or jail. 6. It is both painful and guilt producing.

7. He has discretion to select conditions of a sentence.

18. *Use the words given in brackets to form words with the same roots that fit to fill the gaps in the sentences.*

1. About 80 percent of offenders are ... with a fine (punishment). 2. The maximum fine that can ... by a magistrates' court in England and Wales is normally £ 5,000 (imposition). 3. The courts may order an offender ... compensation for personal injury, loss or damage resulting from an ... (payment; offender). 4. Cautioning is an effective ... to those who have committed minor offences (to deter). 5. Dangerous criminals should be sent to a ... (prisoner). 6. Money from the ... of fines was used to ... victims (to pay; compensation).

19. *Insert the prepositions, if necessary.*

1. The minor offences are punished ... a fine. 2. The offender had to pay compensation ... personal injury resulting ... an offence. 3. The offender had to pay \$ 500 ... a month. 4. Fines are often combined ... incarceration or imposed... of it. 5. The offender was convicted ... a crime. 6. He was sentenced ... death penalty ... murder. 7. A person ... probation is subjected ... rules stated ... the court.

### **Step 3. Post-reading task**

20. *Using vocabulary and information contained in the texts of this Unit write a summary on one of the following topics:*

1. The goals of criminal sentencing.
2. The various sentences available to a judge in the USA.

## **Unit 3. JUDICIARY**

### **Step 1. Pre-reading tasks:**

1. *You are going to read the texts about English and American*

*judges and their role in the administration of justice. Before you read:*

- a) think about what you already know on this subject and try to decide in general what sort of information they might contain;*
- b) make a list of words and legal terms you may find in the texts on this subject. If necessary, consult a dictionary to find English equivalents for the words you don't know;*
- c) look at the words below. Were any of them in your list? Check that you understand their meanings.*

the judiciary; a judge; appellate; a court; to try; a case; to deal with; to decide; independent; to administer justice; a trial; to settle; to preside over; evidence; fact; to listen to; to consider; admissible; to make rulings; to give instructions; to review; appeal; to govern a verdict; legal interpretation; to sit.

## **Step 2. Reading tasks:**

*First Reading: for specific information*

*2. Quickly scan the text to find the following information:*

- a) five names of the courts
- b) two names of the members of the judiciary
- c) the name of the official who appoints all the members of the judiciary
- d) the name of the lay judges who sit in Magistrates' Courts

## **The judiciary in England and Wales**

By contrast with many other European countries, **the judiciary** in England and Wales is not a separate career – Judges are appointed from both branches of the practicing legal profession. There are about 550 **full-time Judges** in England and Wales. They **serve** in the House of Lords (**the final appellate court**), the Court of Appeal, or as **District** or **Circuit Judges**. The

judges of this last group go from town to town **appearing** either **in** Crown Courts **to try criminal cases** or in County Courts **to try civil cases**. There are also **part-time Judges** who serve in the Crown Court, County Court or on various **tribunals**, for instance those **dealing with** unfair dismissal from employment.

In fact most **cases** are dealt with by **lay judges**, who are appointed to various tribunals because of their special knowledge, experience and good standing. For instance, the majority of **minor criminal cases** are judged by the 30,000 **Justices of the Peace** in Magistrates' Courts. They are not **legally qualified** or **paid**, but are **respected members of the community** who **sit** part-time.

All members of the judiciary are appointed by the Lord Chancellor who is a member of the Government and has a function similar to that of a Minister of Justice. However, once appointed, Judges are **completely independent** of both the legislature and the executive, and also are free **to administer justice** without fear of **political interference**.

*Second Reading: reading for detail*

*3. Read the text (p.22) carefully and answer the following questions.*

- 1) What is the main distinctive feature of the judiciary in England and Wales?
- 2) How do you understand the terms “full-time judges” and “part-time judges”? Where do they serve?
- 3) What is the final appellate court in England and Wales?
- 4) What courts do District or Circuit Judges serve in?
- 5) Who is called a lay judge? Why are they appointed to sit in various tribunals?

*4. Study the following polysemous words in their context in the text above (search for underlined words). Choose the best context meaning a) or b):*

- |                  |                               |
|------------------|-------------------------------|
| 1) the judiciary | a) судоустрій, судова система |
|                  | b) судді, судовий корпус      |

- |                 |  |
|-----------------|--|
| 2) to serve     | a) виконувати постанову суду<br>b) виконувати обов'язки                  |
| 3) to appear in | a) представляти в суді інтереси однієї зі сторін<br>b) з'являтися в суді |
| 4) to deal with | a) мати справу (з ким-небудь)<br>b) розглядати, вирішувати               |
| 5) to try       | a) розглядати<br>b) пробувати, намагатися                                |
| 6) tribunal     | a) суд, судовий орган<br>b) суд спеціальної юрисдикції                   |

5. Write out of the text above (p.22) words and phrases in bold type and give their Ukrainian equivalents.

6. Find in the text above (p.22) three synonyms to the verb "to hear" (a case).

7. Fill in the gaps with prepositions if necessary. Consult the text (p.22).

By contrast ...; to appear ... court; to try ... civil cases; to deal ... criminal cases; to be appointed ... special knowledge; members ... the judiciary; to be appointed ... the Lord Chancellor; Justice ... the Peace; to be similar ...; to be independent ...; to appoint ... tribunals.

8. Find in the text above (p.22) the English equivalents for the words and phrases given below and use each of them in your own sentences:

- 1) судді, судовий корпус;
- 2) з'являтися в суді;
- 3) виконувати обов'язки;
- 4) розглядати справу;
- 5) суддя, який не є професійним юристом;
- 6) члени судового корпусу;
- 7) призначати;
- 8) здійснювати правосуддя.



9. A) *Look quickly through the text below. Why do you think it is divided into sections?*

B) *Look at the four headings only. What do the headings tell you about?*

C) *This text is about members of the American judiciary: what information do you think each section of the text contains?*

D) *Try to decide in which of these sections you might find the following words and phrases: trial judge; to try a case without a jury; the jury is a fact-finder; to issue arrest and search warrants; appeals; jury's deliberations; to set and revoke bail; review; to give instructions to the jury; judge listens to the evidence; to hold preliminary hearings.*

E) *Use the headings to form a few questions of your own about each section of the text.*

F) *Read the text quickly to find the answers to your questions.*

G) *Have you found the answers to all your questions? What other information does the text contain?*

H) *Read the text carefully and answer the following questions:*

1. What is the main function of the trial judge in the American judiciary?
2. Who issues arrest and search warrants in the USA?
3. Who holds preliminary hearings and when do they take place?
4. What does it mean that a judge is the sole "fact-finder"?
5. What is the judge's role at the jury trial?
6. What is the role of the appellate judge?
7. What can be reviewed or challenged in the appellate courts?

## Judges

**A Before a trial.** The **trial judge** is a key figure in the American **judiciary**. A significant part of the judge's role is to keep the case in proper legal bounds by **ruling on points of law and procedure**, thus cases are settled under his or her guidance. In addition to **presiding over trials**, judges have many other functions. For example, criminal court judges are responsible for a variety of activities even before a **trial** begins: 1) they **issue arrest and search warrants**; 2) they **ensure that defendants are informed of the charge(s)** and of their right to be represented by counsel; 3) they **set and revoke bail**; 4) they **hold preliminary hearings** to determine if the accused person should be held for trial; 5) they **rule on pre-trial procedural motions** (e.g., to exclude certain evidence); and 6) they **accept or reject** any proposed **plea bargains**.

**B Judge as the sole fact-finder.** When a judge **tries a case without a jury**, he or she is the sole "fact-finder". It is the judge who **listens to the evidence** and decides what facts the evidence has established, and **the inferences** to be drawn from those facts, that together **form the basis for the legal judgment**.

**C Jury trial.** When cases are tried before a jury, the judge still has a major role in determining which evidence may be considered by the jury. The jury is the fact-finder, but it is left to **"find" facts only from the evidence**, which is **legally admissible**: the judge **makes rulings, based on law**, about which evidence may be presented to the jury and which may not be. Moreover, the judge can have a profound influence over **the jury's deliberation** by the instructions he or she gives to the jury on the legal principles or rules that must be followed in weighing the facts.

**D Appellate judge.** The facts that emerge from a trial court are usually beyond **review or challenge** in **appellate** or supreme courts. **Appeals** concern **the application of the law** that governed a verdict, not the facts upon which it was based. The role of the **appellate judge**, then, is almost exclusively one of **legal interpretation**. He or she **sits** primarily to review and, if necessary, **to correct the judgments in law procedure** made by the trial judge.

10. Write out of the text above words and phrases in bold type and give their Ukrainian equivalents.

11. Search for the verbs in the text to fill these slots.

... the case in proper legal bounds; ... on points of law and procedure; ... over the trial; ... arrest and search warrant; ... the defendant of the charge; ... and ... bail; ... or ... plea bargains; ... to the evidence; ... what facts the evidence has established; ... the inferences from the facts; ... basis for the legal judgment; ... fact from the evidence; ... rulings; ... evidence to the jury; ... instructions to the jury; ... the judgments made by the trial judge.

12. Read the text (p.25) and complete the sentences.

1. The trial judge is .... 2. The judge's main role is ... .  
3. Before a trial begins criminal court judges issue ... , ensure ... ,  
... and ... bail, hold ... , rule on ... , accept or reject ... . 4. When a  
judge ... a case without a jury he or she listens to ... and decides  
... . 5. ... and ... together form the basis for the legal judgment.  
6. At the jury trial the jury is ... , but the judge determines ... and  
gives ... to the jury. 7. Appeals concern .... 8. Appellate judge ...

13. Which word or phrase in column A below is most closely connected with which one in column B? You must find partners and connect them in the sentences using words in the correct grammar forms. Note that there may be more than one correct solution!

<b>A</b>	<b>B</b>
1 trial judge	a) to be presented to the jury
2 the sole fact-finder	b) to rule on points of law and procedure
3 criminal court judge	c) to be settled under judge's guidance
4 the judge	d) to consider evidence
5 evidence	e) to try a case without a jury
6 jury	f) to keep the case in proper legal bounds
7 to find facts	g) the application of law

- |                         |                                 |
|-------------------------|---------------------------------|
| 8 before a trial begins | h) legally admissible evidence  |
| 9 a case                | i) to hold preliminary hearings |
| 10 appeals              | j) to preside over the trial    |
| 11 to review            | k) to listen to the evidence    |

14. Match words from groups A and B to form as many correct word combinations as possible. Give their Ukrainian equivalents.

- A judge; evidence; court; jury; case; fact; verdict; inferences; charge; rulings; legal; justice; bail; judgment; counsel; warrant;
- B criminal; trial; to base; to establish; appellate; to issue; District; to appoint; to exclude; Circuit; to consider; to decide; to revoke; deliberation; principle; to administer; to weigh; rules; admissible; to listen; to be represented; full-time; to deal with; to judge; to serve; independent; lay; to settle; to make; to present; to try; to set; to review; to sit; to govern; to draw (from the facts); to instruct; guidance; interpretation; to find;

15. Find the words and expressions in the text (p.25) that match the Ukrainian ones given below:

- 1) встановлювати факти (обставини справи);
- 2) проводити попереднє слухання справи;
- 3) забезпечувати, щоб розгляд справи здійснювався в належних правових межах;
- 4) давати вказівки присяжним;
- 5) засновуватися на фактах;
- 6) вирішувати справу;
- 7) головувати в суді;
- 8) видавати ордер на арешт та обшук;
- 9) вирішувати питання права;
- 10) приймати рішення, що ґрунтуються на праві.

16. Find the words with the similar meanings among the words given below. Write out pairs of synonyms.

to solve; to submit; conclusion; to guarantee; judge; to find; judgment; to ensure; to decide; to present; to consider; inference; to establish; decision; to settle; to examine; Justice; to rule on.

17. Fill the blank spaces with suitable prepositions. If necessary, consult the text.

to be settled ... judge's guidance; in addition ...; to preside ... a trial; to be responsible ...; to be informed ... the charge; to be represented ... counsel; to listen ... the evidence; to draw inferences ... the facts; to form the basis ... the legal judgment; to present evidence ... the jury; to make rulings based ... law; the facts are ... review in appellate court.

### Step 3. Post-reading task

18. A) Think over and speak about the following questions: Who administers justice in Ukraine? Is the role of judges in Ukraine similar to that of the British and American judges? Are there any differences?

B) Use the information and vocabulary you have learnt in this Unit to write a short comparative description of the judiciary in England and the USA and that of Ukraine.

## Unit 4. COURT STRUCTURE

### Step 1. Pre-reading tasks:

1. A) Think about the words relating to the topic "Judicial System" and make a list of them.

B) Does your list include any of the words given in the task C below?

C) Use a dictionary to check that you know the meanings of the words and phrases in the list below and match each one to the correct explanation.

- |                    |             |                   |
|--------------------|-------------|-------------------|
| a) court           | c) inferior | f) jurisdiction   |
| b) judicial review | d) trial    | g) constitutional |

1) officially allowed or limited by the system of rules of a country; connected with the constitution

2) lower in rank or position

3) the place where a trial is held, or the people who examine the evidence and decide whether someone is guilty or not guilty

4) principle according to which the Supreme Court can review actions of the executive and legislative branches of government

5) a legal process in which a judge and often a jury in a court of law examine information to decide whether someone is guilty of a crime

6) the authority of a court to hear and decide a particular case

## Step 2. Reading tasks:

2. Read the following statements then skim the text and decide if these statements are true or false. Can you correct those, which are false?

1 The U.S. Supreme Court exercises only constitutional jurisdiction.

2 Federal courts have concurrent jurisdiction to hear cases involving state crimes.

3 The principle of “judicial review” means that the U.S. Supreme Court can hear appeals from lower courts.

4 The U.S. Constitution gives the federal courts limited jurisdiction to hear cases involving federal questions and diversity of citizenship.

5 The U.S. Supreme Court acts only as an appellate court.

6 Decisions of the State Supreme Court are final and can't be appealed to a higher court.

3. Scan the text and make notes about 1-5:

- 1) federal court system;
- 2) state court system;
- 3) federal courts of original jurisdiction;
- 4) intermediate state courts;
- 5) federal and state courts of limited jurisdiction.

4. Read the text and write down Ukrainian equivalents for the words and expressions in bold type.

### **The Court System of the USA**

The **authority** for the **judicial branch** is set out in Article III of the US Constitution, which states: “The **judicial power** of the United States, shall **be vested in** one Supreme Court, and in such **inferior courts** as the Congress may from time to time ordain and **establish**”. The judicial branch has authority **to examine the acts of** the other two branches of government to determine whether their acts are constitutional. This is called the principle of **judicial review** that means that the Supreme Court has the power to act as the final arbiter of the US Constitution.

The U.S. **judicial system** is a hierarchy of courts set up according to their jurisdiction: state or federal, trial or appellate.

**Jurisdiction of Federal and State Courts.** Federal and state courts have **exclusive jurisdiction** to hear certain cases and **concurrent jurisdiction** to hear others:

<b>Exclusive Federal Jurisdiction</b>	<b>Concurrent Jurisdiction</b>	<b>Exclusive State Jurisdiction</b>
Admiralty	Federal questions	Matters not subject to federal jurisdiction, e.g. matters covered by traditional police power: torts, state crimes and zoning regulations
Antitrust	Diversity of citizenship	
Bankruptcy	Specified federal statutes	
Copyright and Trademarks	that allow for concurrent jurisdiction	
Federal crimes		
Patents		
Suit against the U.S.		
Other specified		
Federal statutes		

The U.S. Constitution gives the federal courts **limited jurisdiction** to hear cases involving federal questions and **diversity of citizenship**. A **federal question** is one arising under the U.S. Constitution, treaties or federal statutes and regulations. An example of a federal question would be a person suing because she believes her **constitutional rights** are being violated. There are no dollar-amount restrictions on federal questions.

Diversity of citizenship involves cases between citizens of different states; a citizen of a state and a citizen of a foreign country. The purpose of diversity of citizenship jurisdiction is to prevent state court bias against nonresidents. The **dollar amount in controversy** must exceed \$50,000.

*Federal Courts.* The federal court system consists of the U.S. Supreme Court, U.S. **courts of appeal**, U.S. **district courts**, and **special federal courts**.

*The United States Supreme Court*, located in Washington, D.C., is **the highest level of appeal** in the federal and state court systems. The Supreme Court is comprised of nine **justices**, who are nominated by the President and confirmed by the Senate. One justice is appointed by the President to be **chief justice**, and other eight are **associate justices**.

Because the Supreme Court **acts** mainly **as** an appellate court, it **hears appeals from** federal district courts, federal special courts, and the highest state courts. It has **limited primary jurisdiction over disputes between** states and **cases of national importance**. Generally, the Supreme Court has **discretion** to decide what cases it will hear. As a rule it hears cases involving constitutional or other important issues, such as cases affecting ambassadors, disputes between states and others. **Holdings** of the Supreme Court are **mandatory** and are **binding on** all other U.S. courts. **The decision** of the Supreme Court is **final**.

*The U.S. courts of appeal* are the federal court system's **intermediate appellate courts** set up according to territorial principle and located in 12 geographical **circuits**. The U.S. circuit courts of appeals hear appeals from the district courts located in their circuit as well as certain **administrative agencies** and **special courts**. There is also the Court of Appeals for the Federal



Circuit located in Washington, D.C., that **reviews decisions** of the Claims Court, the Court of International Trade, and the U.S. Patent and Trademark Office.

Appeals are usually heard by a **three-judge panel**. If a **petitioner** is not **satisfied with the decision** of the panel, he or she can petition **to have the case reviewed *en banc*** (by the full court).

Most federal cases originate in the 96 *federal district courts*. The U.S. District Courts are the federal court system's **trial courts of general jurisdiction**. Federal district courts can **impanel juries, receive evidence, hear testimony and decide cases**.

*Special federal courts* are **courts of limited jurisdiction**; that is, they **have jurisdiction only over a specific type of law**:

<b>Courts</b>	<b>Hears Cases Involving</b>
U.S. bankruptcy courts	Bankruptcy
U.S. claims court	Cases brought against the United States
U.S. tax court	Federal tax laws
U.S. Court of International Trade	Tariffs and international commercial disputes

*State Courts*. All states have **separate court systems**, and while they differ somewhat from state to state, the basic structure is the same. Generally there is a supreme court, appellate courts, **general-jurisdiction trial courts**, and **limited-jurisdiction specialized courts**.

*The supreme court* is **the highest state court**. The state supreme court is considered to be **the final interpreter of state laws**. It hears appeals from intermediate state courts and certain trial courts, and its decisions are final unless there is a **question of law** that can be appealed to the U.S. Supreme Court.

*Appellate courts* hear appeals from trial courts to determine if there were any errors at **the trial court level** that would require **reversal or modification of the trial court's decision**. Decisions of appellate courts are **appealable** to the state supreme court.

*General-jurisdiction trial courts* are often called "**courts of records**" because trial testimony and evidence are recorded.

These courts hear cases such as **felonies** or **civil cases** involving **lawsuits** over a certain dollar amount and cases that are not within the jurisdiction of **limited-jurisdiction trial courts**.

There are a variety of types of *limited-jurisdiction* or *specialized trial courts*. Usually they hear **matters of a limited or specialized nature**, such as **juvenile courts**, **traffic courts**, **probate courts**, and **the small claims courts** dealing with lawsuits under a certain dollar amount. Decisions of these courts can be appealed to a general-jurisdiction trial court or an appellate court, although many jurisdictions **limit the possibility of appeal**.

*5. Refer to the text above again to answer the following questions:*

1. How is the administration of justice organized in the USA? What is the relationship between the different courts?

2. Can you name two main features of the U.S. judicial system, which differ it greatly from the judiciary of Ukraine and many other countries?

3. Which tribunal in the USA is the court of the highest resort?

4. How do you understand the term “judicial review”?

5. Over what kinds of cases do the federal and state courts have concurrent jurisdiction?

6. What kind of jurisdiction does a specialized trial court exercise?

7. What courts hear appeals from state trial courts?

8. Which court acts as the final interpreter of the state laws?

9. Can you describe the way of an appeal in the federal and state court systems?

*6. Read the text in more detail and using information from the text design a diagram (in your notebooks), which shows the hierarchy and jurisdiction of the American Courts.*

*7. Study the following polysemous words in their context in the text (search for underlined words) and match each one to the*

*correct Ukrainian equivalent a) or b):*

- |                 |  |
|-----------------|--|
| 1) to act as    | a) виступати в якості<br>b) діяти, чинити                |
| 2) to state     | a) заявляти, стверджувати<br>b) встановлювати, визначати |
| 3) to examine   | a) перевіряти<br>b) екзаменувати                         |
| 4) jurisdiction | a) судовий округ<br>b) підсудність, юрисдикція           |
| 5) justice      | a) правосуддя<br>b) суддя                                |
| 6) holding      | a) володіння<br>b) судове рішення                        |

*8. Look through the words given below and make sure you know their meanings. Search for and write out of the text words with the same roots. Define what parts of speech they are and try to guess what they mean.*

Constitution, to testify; original, different, to appeal, to try, evident; representative; possible; citizen; to restrict; prevention; resident; to govern.

*9. Match the words and word combinations on the left with their synonyms on the right. There may be more than one synonym to each word:*

- |                    |                     |
|--------------------|---------------------|
| 1) jurisdiction    | a) to suggest       |
| 2) inferior        | b) competence       |
| 3) to establish    | c) to consent       |
| 4) judicial system | d) authority        |
| 5) to consist of   | e) full court       |
| 6) to nominate     | f) judiciary        |
| 7) to confirm      | g) to be made up of |
| 8) en banc         | h) to set up        |
| 9) panel           | i) higher           |

- j) to found
- k) to create
- l) the bench
- m) to be comprised of
- n) to approve
- o) powers

10. Match the words with the opposite meanings:

- |              |              |
|--------------|--------------|
| 1) justice   | a) superior  |
| 2) mandatory | b) lower     |
| 3) inferior  | c) original  |
| 4) final     | d) judge     |
| 5) higher    | e) unlimited |
| 6) limited   | f) binding   |

11. Find words or phrases in the text, which mean the following:

- 1) розглядати та вирішувати справу;
- 2) обов'язковий; той, що має обов'язкову силу;
- 3) складатися з ...;
- 4) федеральна судова система;
- 5) найвищий апеляційний рівень;
- 6) голова суду;
- 7) член суду;
- 8) окружний апеляційний суд;
- 9) суд у справах про неспроможність (банкрутство);
- 10) склад суддів;
- 11) судовий нагляд (контроль); судовий перегляд;
- 12) суд першої інстанції з обмеженою юрисдикцією;
- 13) переглядати справу судом у повному складі (на пленарному засіданні суду);
- 14) розпочинатись;
- 15) суд, який розглядає позови на невелику суму;
- 16) розглядати апеляційні скарги;
- 17) збіжна юрисдикція;
- 18) суд першої інстанції з загальною юрисдикцією.

12. A) Which words from the text above and from the text of the previous Unit can be combined with the words given below on the left? Make as many word combinations with these words as possible.

B) Give the Ukrainian equivalents of the phrases on the right and word combinations of your own.

C) Make up sentences with some of these collocations.

- a) court            1) European court; 2) juvenile court; 3) civil court; 4) court judgment; 5) court of law; 6) contempt of court; 7) to take sb to court;
- b) jurisdiction   1) original jurisdiction; 2) constitutional jurisdiction; 3) to exercise jurisdiction; 4) criminal jurisdiction; 5) final appellate jurisdiction;
- c) judge            1) presiding judge; 2) senior judge; 3) federal judge; 4) to sit as a judge;
- d) judicial        1) judicial system; 2) judicial supervision; 3) judicial authority;

13. Choose the words from the text you've read (Ex. 4) to complete the gaps in the text below.

Federal and (1) .... Courts.

The federal court (2) .... is made up of trial and (3) .... courts. The federal district courts are the (4) .... courts for violations of federal (5) .... and crimes committed on federal property. Ninety-six federal district courts in the United States are (6) .... by federal judges who are (7) .... for life by (8) .... of the United States with the advice and consent of the U.S. Senate. Federal district judges in turn sometimes appoint federal magistrates who (9) .... pretrial motions and misdemeanor cases.

The U.S. (10) ...., sometimes called the U.S. Circuit Courts of Appeals, are located in twelve geographic (11) ...., with

one additional Federal Circuit Court in Washington, DC. The circuit courts hear (12) .... from the district (13) .... . Usually a three-judge (14) .... in a circuit court votes either to affirm or to reverse a lower-court (15) .....

The U.S. (16) .... is the highest court in the land. Nine (17) .... can review the decisions of federal courts and many of the decisions of (18) .... state courts either on appeal or by a writ of certiorari. The Supreme Court is (19) .... in interpreting of the U.S. Constitution.

Each state has its own system of (20) .... that handle the overwhelming majority of the criminal prosecutions in the United States. Each state system includes both (21) .... and appellate courts.

### Step 3. Post-reading task

*14. A) Find in the texts of this Unit all the legal terms on the topic “Judicial system” and copy these words and phrases into your vocabulary.*

*B) Use them to write a brief summary of the text “The Court System of the USA” in your own words.*

## Unit 5. THE BAR

### Step 1. Pre-reading tasks:

*1. You are going to read about the members of the legal profession in Anglo-American legal system:*

*A) Think about this subject considering Ukraine:*

- How do we call members of the legal profession in our country?
- What are the main groups, which a defence lawyer’s activity can be divided into?

- Who can discharge the functions of a defence lawyer in Ukraine?

*B) Think about the main distinctive features of the legal profession in England and Wales. Make notes in your notebook.*

*2. Make up a list of words, which are associated with the term **defence lawyer**. If necessary, consult a dictionary to find English equivalents for the words you don't know.*

## **Step 2. Reading tasks:**

*Reading for general understanding*

*3. Skim the text and choose a summary sentence from the sentences given below, which expresses best of all the main point of the text:*

- (a) Analysis of reasons for the separation of the legal profession in the English legal system.
- (b) Historical background and present-day situation in the system of advocacy.
- (c) The functions of solicitors and barristers.

*Reading for specific information*

*4. Read the text more carefully and react to the statements: agree or disagree.*

1 In the English legal system there are two classes of legal practitioners: sergeants and barristers.

2 Preparatory stages of an action were and still are carried out by attorneys.

3 Attorneys and solicitors formed their own professional organization because the Inns of Court refused to admit them to membership. It was called Law Society.

4 To become a barrister one must have a law degree and

be called to the Bar.

5 Solicitors have a right of audience only in the Court of Chancery.

6 In Britain and Commonwealth all practitioners are referred to as “lawyers”.

7 Only solicitors undertake the writing of opinions.

### **The Legal Profession in the UK**

A distinctive feature of the English legal system is the division of the legal profession into two separate branches – **solicitors** and **barristers**. This precise division is unknown outside Britain and the Commonwealth. Elsewhere all **practitioners** are described as “**lawyers**”, a word which has no particular application in England. The division of the legal profession dates back to about 1340, the time at which **professional advocacy** evolved. The **advocates with the right of audience in the common law courts** were the **sergeants** and barristers while the **preparatory stages of an action** were carried through by **officers of the court** known as **attorneys**. There thus developed two classes of legal practitioners: sergeants and barristers on the one hand and on the other hand attorneys who were, as solicitors still are, officers of the court. Solicitors, as distinct from attorneys, first appeared in the fifteenth century and practised in the Court of Chancery. They were, at first, inferior to attorneys and couldn’t bind their **clients** as attorneys could. By the eighteenth century the offices of attorney and solicitor were frequently held by the same person and the distinction between them was finally abolished by the Judicature Act 1873.

The Inns of Court preserved the separation of barristers and solicitors. Barristers had **to be members of one of the Inns of Court** and these Inns, after the sixteenth century, refused to admit attorneys or solicitors to membership. As a result the latter banded together and by 1739 had formed their own **professional organization** in London that was the forerunner of the Law Society existing today.

Thus the separation of the legal profession has a historical



foundation as has the nature of the respective functions, which barristers and solicitors perform. These structures, functions and divisions are, however, increasingly undergoing both challenge and change. Barristers are still primarily advocates, although many barristers in fact spend most of their time **engaged in “paper-work”** such as **the drafting of pleadings, divorce petitions, complex settlements and opinions on specialised matters** such as **taxation and company law**. Solicitors **deal with the preparatory stages of litigation** such as the **preparation of evidence, interviewing witnesses, issuing writs** and, usually, **conducting interlocutory proceedings**. Solicitors have had a right of audience in most courts and tribunals. In addition solicitors deal with a large number of **non-litigious matters** such as **the drafting of wills, the supervision of trusts and settlements, the administration of estates and conveyancing**.

There are other distinctions between the two branches of the profession. Solicitors may **enter into partnerships**, but barristers may not. Barristers **appear in court** (other than magistrates’ courts) in **wig and gown**; solicitors appear in gown in certain courts, notably the county court, but are never bewigged. Solicitors are instructed by their clients directly; **barristers** are generally **instructed by a solicitor** and not by **a lay client** directly.

**The controlling body** in the case of solicitors is the Law Society. Membership of the Society is voluntary although the vast majority of the solicitors currently in practice are, in fact, members of the Society. The Society is governed by the President, Vice-President and a Council of not more than 70 members, the latter being elected for a period of five years. The objects of the Society are **“promoting professional improvement and facilitating the acquisition of legal knowledge”**. Notwithstanding its **voluntary composition** the Law Society has important **regulatory powers** in respect of all solicitors.

**The Bar** had been organised as **an association of the members of the Inns of Court** by the 14th century. Today there are four Inns of Court. **Entry to the Bar** is restricted to graduates and mature students. **An aspirant barrister** must register with

one of the four Inns of Court in London. Commonly, a barrister will have a law degree and then undertake **professional training** for one year leading to **the Bar Finals**. The successful student is then **called to the Bar** by his or her Inn of Court. **The profession's governing body** is the General Council of the Bar of England and Wales and of the Inns of Court (the Bar Council). It is run by elected officials and is responsible for the Bar's Code of Conduct, disciplinary matters and representing the interests of the Bar.

5. Study the following words and expressions in their context in the text above and match each one to the correct explanation from the list below.

- a) right of audience    c) advocacy    e) settlement  
b) practitioner    d) to be called to the Bar    f) to appear in court

- 1) someone who practises as a lawyer
- 2) to be admitted to the legal profession by one of the Inns of Court
- 3) the right to appear in a court to represent clients
- 4) an official agreement or decision that ends an argument or a court case
- 5) public support for a course of action or way of doing something
- 6) to be the legal representative for someone

6. Write out of the text above words and phrases in bold type and give their Ukrainian equivalents.

7. Study the following polysemous words in their context in the text (search for underlined words). Choose the best context meaning a) or b):

- |                |                  |                 |
|----------------|------------------|-----------------|
| 1) application | a) заява         | b) застосування |
| 2) action      | a) судова справа | b) дія          |
| 3) officer     | a) службовець    | b) офіцер       |

4) to deal with	a) займатися	b) розглядати
5) office	a) посада	b) службове приміщення, офіс
6) administration	a) здійснення	b) управління
7) composition	a) твір	b) склад
8) settlement	a) рішення, угода	b) поселення
9) opinion	a) висновок	b) мотивоване рішення суду

8. *Word search. Look at the text (Ex. 4) again and try to find:*

- 1) nouns which mean:
  - a) a type of a lawyer in Britain who gives legal advice, prepares documents and appears in the lower courts of law;
  - b) someone who gets services or advice from a lawyer;
  - c) a general name of a lawyer who speaks in a court of law;
  - d) an important position with power;
  - e) the process of taking claims to a court of law;
  - f) a lawyer who is in legal practice;
- 2) adjectives which describe:
  - a) something done in order to get ready for something;
  - b) thing you are allowed to do by law; relating to the law;
  - c) thing consisting of many different parts, difficult thing;
  - d) matters, which are not disagreements and there is no need to bring them to a court of law;

9. *Make sure you know what the words given below mean and in the text above search for and write out words with the same roots. Define what parts of speech they are and try to guess their meaning.*

Evolution; to develop; to separate; to divide; to prepare; to

act; distinct; to practise; to litigate; special; profession; to prepare; to supervise; to administer; litigant; to improve; to acquire; to compose; instruction.

10. Find in the text above the English equivalents for the following words and expressions and reproduce the context in which they are used:

- 1) професійна організація;
- 2) практикуючий юрист, адвокат;
- 3) практикувати;
- 4) адвокатська діяльність;
- 5) службовці (посадові особи) суду;
- 6) право виступати в суді;
- 7) займати посаду;
- 8) проміжний судовий розгляд;
- 9) школи підготовки баристерів, “Судові Іни”;
- 10) підготовчі (попередні) стадії судового розгляду;
- 11) колегія адвокатів;
- 12) асоціація юристів;
- 13) виконувати обов’язки;
- 14) займатися паперовою роботою;
- 15) готувати змагальні папери;
- 16) виступати в суді (за ту чи іншу сторону);
- 17) приймати в адвокатуру; надавати право адвокатської практики;
- 18) вступ до колегії адвокатів;
- 19) знайомити (баристера) з обставинами справи; доручати ведення справи;
- 20) професійна підготовка.

11. Find the words with similar meaning among the words given below and write out pairs of synonyms.

To develop; to carry out; supervising; complicated; division; lower; office; action; to undertake; to evolve; separation;

inferior; complex; controlling; litigation; position;

*12. What is an advocate called in the United States of America? Read the text and check if you were right or not. Write out of the text words and expressions in bold type and give their Ukrainian equivalents.*

### **The Role of the Defense Lawyer in the USA**

As soon as a person is arrested he or she needs a **defense attorney**. As a matter of fact in the USA the role of the defense attorney begins almost as soon as an arrest occurs, for the accused needs the assistance of counsel **to make sure interrogation and other pre-trial procedures are conducted in strict conformity with the law**. During apprehension a police officer must remind a suspect: “you have a right to an attorney ...”.

After that point, the defense counsel’s role is **to review the documents** and other evidence the police have accumulated against the accused, and **to interview or question the arresting officers** and others involved in the case. The defense attorney may interview witnesses to the crime, and may even **conduct an independent investigation**.

Important work of the defense attorney is done in conversations with the prosecutor assigned to the case. Thus defense and **prosecuting attorneys** know each other, and can feel each other out for impressions about **the strengths of cases**.

At **bail hearings** and in **plea negotiations** defense attorneys represent the accused. They prepare pretrial motions and often argue them in **pretrial conferences and hearings**. Then, if all else fails and cases **go to trial**, the defense attorneys prepare the defense material for trial.

At trial defense attorneys **question prospective jurors, cross-examine prosecution witnesses, call defense witnesses**, and generally represent the accused. If cases **result in conviction**, the defense attorneys help those convicted gain the best possible sentences. Then, sometimes appeals may be pursued, which can **entail written documents arguing for reversal of the decisions**

**or sentences.**

Thus, defense attorneys **are involved** in every **stage of the criminal justice system** beginning with the arrest. And throughout all the stages of criminal justice decisions they are responsible for protecting the accused's Constitutional rights, to be sure their **clients are not treated unfairly or improperly.**

Lawyers are expected **to adhere to high standards of ethical conduct** and **are subject to discipline for misconduct.**

*13. Complete the sentences by writing appropriate information from the text.*

1. In the USA an arrested person needs... 2. The accused needs the assistance of counsel to make sure ... 3. During apprehension a suspect should be reminded by a police officer that he or she ... 4. The defense attorney in the USA may even conduct ... 5. At bail hearing defense attorneys argue ... 6. If a case goes to trial, the defense attorneys ... 7. Throughout all the stages of the criminal justice system the defense attorneys are responsible ... 8. During pre-trial stage a defense counsel's role is to ... 9. At trial defense attorneys ... 10. If a defense counsel disagrees with a court judgment he or she may ...

*14. Decide which of the following functions are performed by a defense attorney in the USA: a) before a trial; b) during a trial. Divide them into respective groups.*

To ensure the interrogation is conducted in strict conformity with the law; to be sure the accused is treated fairly and properly by the bodies conducting investigation; to question prospective jurors; to represent the accused in plea negotiations; to review the documents and materials of the case; to examine evidence accumulated by the police; to help convicted persons to gain the best possible sentence; to prepare the defense materials for trial; to cross-examine prosecution witnesses; to conduct an independent investigation; to question arresting officers just after the apprehension; to represent the accused at bail hearing; to find

out the strengths of the prosecution's case; to call defense witnesses; to prepare pretrial motions.

*15. In the sentences below fill each blank space with a suitable form of the words given in brackets*

1. Within England and Wales the legal ... is divided into two main branches: solicitors and ... (professional; bar). 2. Solicitors are the principal ... on all matters of ... to the public and undertake most ... in the court (to advise; lawyer; litigant). 3. The role of solicitors is to ... legal services, including ... in court (provision; to plead). 4. Solicitors make wills and ... estates of people who have died (administration). 5. Barristers are ... consultants offering specialist services (legality). 6. Formerly only barristers were allowed to appear as ... in some courts (advocacy). 6. The ... attorney may pursue an ... (to defend; appellate). 7. Defense counsel is ... for protecting the ... (responsibility; accusation). 8. Defense attorneys ... pretrial motions and often ... them in court (preparation; argument).

*16. Fill in the gaps with preposition, if necessary. If you need, consult the texts above.*

The prosecutor assigned ... the case; to admit ... a membership; to draft opinions ... specialized matters; to interview witnesses ... the crime; to remind ... a suspect about his right ... an attorney; evidence accumulated ... the accused; an advocate ... a right ... audience; solicitors were inferior ... attorneys; to conduct interrogation ... conformity ... the law; to be involved ... stage ... the criminal justice; to prepare the defense material ... trial; to begin ... the arrest; to adhere ... high standards of ethical conduct; to conduct ... an independent investigation; to pursue ... an appeal; to represent ... the accused ... trial and ... plea negotiations; to argue ... reversal ... the decision or sentence; to be responsible ... the protection of the accused's Constitutional rights; to be treated ... fairly and properly.

17. Find in the text (Ex.12) English equivalents for the following words and phrases and use them in your own sentences:

- 1) допомога адвоката;
- 2) під час затримання;
- 3) нагадувати підозрюваному;
- 4) мати право на адвоката;
- 5) накопичувати (збирати) докази проти обвинуваченого;
- 6) опитувати свідків злочину;
- 7) представляти обвинуваченого;
- 8) клопотання, заявлене до початку судового розгляду;
- 9) заявляти, доводити;
- 10) направляти справу на судовий розгляд;
- 11) добиватися найкращого з можливих покарань;
- 12) порушувати апеляційне провадження, подавати апеляційну скаргу.

18. A) From the texts you've read in this unit write out all the words, which mean "someone whose job is to advise people about laws, write formal agreements and draw up legal documents, or represent people in court".

B) Try to explain the difference between the terms you've written. What should we keep in mind to make the right word choice in a sentence? Consult a dictionary, if necessary.

C) Write example sentences.

19. There is a list of functions, which are performed by the participants of the criminal justice system. Choose and write out the functions of a defence lawyer. Who undertakes the rest of the listed functions? Divide the words and phrases given below into groups and name an official carrying out respective functions.

To arrest; to decide whether to charge of a crime or not; to represent the accused; to prove guilt; to apprehend; to supervise; to call defence witnesses; to rule on points of law;



to investigate crimes; to prepare pretrial motions for the client; to accumulate evidence against the accused; to preside over trials; to interpret the law; to interview the arresting officers and witnesses to the crime; to remind a suspect about his / her right to an attorney; to conduct an independent investigation; to represent the prosecution; to pursue an appeal; to control the prosecution process; to pass the materials of the case to the CPS; to issue an arrest warrant; to take the suspect into custody; to try criminal cases; to draft divorce petitions; to cross-examine prosecution witnesses; to be sure an accused is treated fairly and properly.

### Step 3. Post-reading tasks:

20. A) *What is your opinion about the system of advocacy in Britain? Is it really rational or maybe the system based on the division of the legal profession into two separate branches, which dates back to 14<sup>th</sup> century, still exists because of famous English conservatism?*

B) *Think of and speak about the advantages and disadvantages of the separation of advocates' duties?*

21. *Discuss the role and functions of defense attorneys in the system of criminal justice in the USA.*

22. *Use information from the texts of this unit, your notes (Ex.1, 20, 21) and, if necessary, do some personal research to compare the systems of advocacy in Ukraine and in the countries of Anglo-American legal system. Write a comparative composition "Advocacy in England and Wales comparing with that of the USA and Ukraine".*

## Unit 6. TRIAL

### Step 1. Pre-reading tasks:

*1. Test your knowledge of the American legal process. Look through the statements below and try to decide which of them are true and which are false. Then quickly skim the texts below and check your answers.*

1. In American legal system a judge plays an active role in getting the truth.
2. In the trial the accused is presumed innocent until proven guilty beyond a reasonable doubt.
3. Rules of evidence protect the defendant from unfair allegations.
4. The competing parties present their arguments before a judge, whose role is to ensure a fair trial.
5. The judge participates in questioning of the potential jurors.
6. In criminal cases burden of proof rests with the defence.
7. The same offence may be considered either criminal or civil.

### Step 2. Reading tasks:

*Reading for understanding the general content of the text*

*2. Skim the text, do not translate it but just try to understand what information it gives in general. Write down the main ideas of the text and think of a title for it.*

\* \* \* \* \*

American legal system is based on the **adversary process**. The adversary process is grounded on the idea that the best way to get to the truth is to allow all the **competing parties** to present their views to an impartial third party as **adversaries**, or opponents, under rules that permit the evidence to be presented fairly. A **trial** under the adversary process is designed to (1)

**determine the facts, (2) determine governing law, (3) apply law to the facts and (4) resolve disputes by awarding (or denying) judgment.** Thus it is the impartial third party – the judge or jury – who **decides the case** based on the evidence presented.

Concepts such as “*burden of proof*” and **standards of proof** such as “**beyond a reasonable doubt**” or “**more probable than not**” may mean everything to an **accused person** who must be “more probably than not” guilty of an offence **to be indicted (charged with a crime)**, but must be proved guilty “beyond a reasonable doubt” **to be convicted**. The complex nature of the **legal process** ensures equal protection of the law and **due process of law**, which are the essence of American system of justice.

Law deals with two kinds of cases. **Civil cases**, for the most part, involve the **resolution of private conflicts** between people or institutions; **criminal cases** involve the **enforcement of public or official codes of behavior** that society deems necessary for the protection of its citizens or of itself.

**Domestic relations issues – divorce, child support, custody**, and the like – are the biggest single **subject of civil cases**. **Automobile accidents** probably account for more **tort actions** – a very common type of civil case – than any other cause. An auto accident can **give rise to a civil case** if one driver **sued** the other, if both drivers sued each other, or if a passenger in one of the cars sued either driver. If an accident involves **allegations of illegal behaviour – drunken driving, hit and run driving** – it may also give rise to a criminal case. In criminal cases the state **brings charges against** the person who **allegedly committed the crime**. In civil cases the persons themselves **bring suits**.

*Reading for specific information*

3. Scan the text above and answer these questions:

1. How do you understand term “the adversary process”?
2. What is a judge’s role in a trial under the adversary process?
3. What does standards of proof such as “beyond a reasonable doubt” and “more probable than not” mean in the

American judicial system? When are they applied?

4. Can you explain the meaning of the concept “burden of proof”? With which main principle of justice is it connected?

5. Do you know under what circumstances a civil offence can give rise to a criminal case?

*4. Scan the text below to find the corresponding legal terms for the following explanations:*

1) an offence that is tried by a jury in the Crown Court;

2) a trial before magistrates without a jury;

3) an offence that may be tried either as an indictable offence or a summary offence;

### **Kinds of Trial**

There are three **methods of trial** in English system of law. **Summary trial** is a trial by magistrates without a jury. Some **offences triable either way** are also tried in this way. The latter include **offences of deception, theft, bigamy and sexual intercourse with a girl under age of 16**. Offences triable either way (**either way offences**) are called so because they are crimes that may be tried either as an **indictable offence** or as a **summary offence**. When an offence is triable either way, the magistrates' court must decide, on hearing **the initial facts of the case**, if it should **be tried on indictment** rather than summarily. Even if they decide that they can deal with the matter themselves, they must give the defendant **the choice of opting for** trial upon indictment before the jury. An indictable offence is an offence that is tried on indictment, i.e. by a jury in the Crown Court.

*5. Write out of the texts above words and phrases in bold type and give their Ukrainian equivalents.*

6. A) *Make sure you know the meanings of the words from the list below. Find in the texts above the words with the same roots and try to guess their meanings.*

to try; to defend; to summarize; to indict; offender; to initiate; competition; permission; evident; application; reason; to prove; judge; legality; to allege.

B) *Consult a dictionary and add some more words derived from the same root to continue the list of word family. Translate them into Ukrainian.*

7. *Insert the prepositions, if necessary. Consult the texts above.*

1. The defendant was given the choice of opting ... trial ... indictment ... the jury. 2. The magistrates' court must decide if an offence should be tried ... indictment or ... summarily. 3. Summary trial is a trial ... magistrates ... a jury. 4. It is a judge or jury who decide ... the case based ... the evidence presented. 5. To be charged ... a crime an accused person must be "more probably than not" guilty ... an offence. 6. An auto accident can give rise ... a civil case if one driver sued ... the other. 7. It may also give rise to a criminal case if an accident involves allegations ... illegal behaviour. 8. ... criminal cases, the state brings ... charges ... a suspected person. 9. A trial ... the adversary process is designed to get ... the truth.

8. *Find the words and expressions in the text (Ex.2) that match Ukrainian ones given below:*

- 1) змагальний процес;
- 2) встановлювати істину;
- 3) протилежна сторона (в судовому процесі), процесуальний супротивник;
- 4) неупереджена третя сторона;
- 5) представляти докази належним чином;
- 6) закон, що застосовується у даній справі;
- 7) винести судове рішення;

- 8) відмовити у винесенні рішення, відхилити рішення;
- 9) тягар доведення;
- 10) поза будь-яким розумним сумнівом;
- 11) скоріше винен у вчиненні злочину, ніж не винен.

*9. Remember the vocabulary of the previous units and complete the text by writing an appropriate word in each space or translating words given in brackets into English.*

#### Officers of the Court.

The (1)... presides in the courtroom. If (справа) is tried before a jury, the judge (вирішує питання права) and gives (2) ... to the jury, informing the jury about the law, which (регулює) the case. If there is no jury, the judge determines the facts and decides the verdict – e.g., finding of guilty or (3) ... in a criminal case, or a finding for or against the plaintiff or the defendant in (4) ... trial.

The court clerk or bailiff usually administers the oath to prospective jurors and to (свідків). The clerk is also the repository of physical exhibits introduced into evidence and (відповідає, несе відповідальність) for other administrative aspects of (судового розгляду).

The bailiff keeps order in the (залі судових засідань), (викликає) the witnesses and leads the jury in and out of the courtroom as directed by the judge. It is the bailiff's duty to be certain no one outside the courtroom attempts to influence (суд присяжних).

The court reporter (5) ... everything that is said as a part of the formal proceedings in the courtroom, including the testimony of (6) ..., objections made by the lawyers and the (7) ... rulings on those objections.

The lawyers for both (сторін) are also the officers of the court. Their job is to (8) ... their clients on the premise that (правосуддя) can best be achieved if the arguments of each side are presented by competent legal counsel.

10. In the text above (Ex. 9) find English equivalents for the following words and phrases.

- 1) секретар суду;
- 2) судовий пристав;
- 3) приводити до присяги;
- 4) майбутні (можливі) присяжні;
- 5) той, кому довірено зберігати речові докази;
- 6) представляти як докази; приєднувати до доказів;
- 7) протоколіст суду;
- 8) заперечення.

11. Check the meaning of the following words and phrases in a dictionary. Then match them to respective explanations.

- a) to impeach a witness (evidence) c) direct evidence e) leading question  
b) rebuttal evidence (witness) d) expert witness f) hearsay

- 1) evidence which speaks for itself
- 2) to destroy or reduce the credibility of the witness or the evidence
- 3) question that suggests the answer desired, prompting the witness
- 4) what the witness says he or she heard from another person
- 5) evidence not presented in the case initially, or a new witness who contradicts previous witnesses
- 6) witnesses qualified in a particular field

12. Scan the text below and find answers to these questions:

1. What are the steps of a trial?
2. What is the first stage at the jury trial?
3. Which party has the right to pronounce opening statement first?
4. What types and forms of evidence exist?
5. What is a physical exhibit?

6. What are objections?
7. When can objections be made?
8. Who can sustain or overrule an objection?
9. What happens during jury deliberations?
10. How many times can a witness be questioned during the trial?
11. What is the aim of calling the rebuttal witnesses?
12. What is a bench conference?
13. What does the judge say in the instructions?
14. Who determines the sentence?

### **Trial Procedure: Civil and Criminal**

While there are some differences in civil and criminal trials, the basic **courtroom procedure** is the same. This text discusses civil and criminal trial procedure collectively, noting the differences where they occur.

The **trial jury** in either a civil or criminal case is chosen at random from a list called a **venire**. The size of a jury varies from six to twelve persons and depends on the type of a **case at trial**. **Alternative jurors** are also selected in some cases to take place of jurors who may become disabled during the trial. They **hear the evidence** just as the other jurors do, but they do not **participate in the deliberations** unless they replace an original juror.

**Jury selection** begins with the court clerk's calling twelve people on the jury list and asking them to take place in the jury box. Then **questioning of the potential jurors** by the judge or the lawyers known as **voir dire** follows. If either lawyer believes a juror is **prejudiced about the case**, he or she can ask that the juror **be dismissed for cause**. Each lawyer may challenge an unlimited number of jurors for cause. In addition each lawyer has a specific number of **peremptory challenges** that permit a lawyer to excuse a potential juror without stating a cause. When both **parties** have agreed upon a jury, the **jurors are sworn in** by the court clerk and **court hearing** begins.

A trial begins with the opening statement of the party with the burden of proof. In a criminal trial, the burden of proof **rests**



**with** the state, which must **prove** beyond a reasonable doubt that **the defendant** is guilty. In a civil trial, **the plaintiff** has the burden of proof, and generally must **prove liability by a preponderance of the evidence** (i.e. the greater weight of the evidence). Then the defense lawyer pronounces his or her opening statement.

The heart of the case is **the presentation of evidence**. There are two types of evidence – **direct** and **circumstantial** – and they are offered in two forms – **oral testimony of witnesses** and **physical exhibits**, including documents. Direct evidence usually is that which speaks for itself: **eyewitness accounts, a confession, a weapon of a crime**. Circumstantial evidence usually is that which suggests something by implication: **the appearance of the scene of a crime, testimony that suggests a connection or link with the crime, physical evidence that suggests criminal activity**.

Lawyers for the plaintiff or the state begin the presentation of evidence by **calling witnesses**. This **stage** is called **direct examination**. Witnesses may **testify to matters of fact, identify documents, pictures or other items introduced into evidence**.

Generally, witnesses cannot **testify to hearsay**, state opinions or give conclusions unless they are **experts** or are especially qualified to do so. Witnesses qualified in a particular field as **expert witnesses** may give their opinion based on the facts in evidence and may give the reason for that opinion. Sometimes the facts in evidence are posed to experts in **hypothetical questions**. Lawyers generally may not ask their own witnesses **leading questions**. **The opposing counsel** may make **objections** to leading questions, though there are many other reasons for objections, which will be immediately either **sustained** or **overruled** by the judge.

When the lawyer for the plaintiff or the state has finished questioning a witness the defense may then **cross-examine the witness** on matters that were raised during direct examination. Since the purpose of cross-examination is to test **the credibility** of statements made during direct examination, leading questions may be asked. On cross-examination the attorney tries **to impeach the**

### **witness or the evidence.**

After cross-examination, the lawyer who called the witness has the right to ask additional questions on **re-direct examination** in an effort to rehabilitate a witness whose testimony on direct examination was weakened by cross-examination. The opposing lawyer may then **re-cross-examine**, and re-re-direct may then follow, etc. until either the lawyer have finished or the judge put an end to it.

The defense **presents evidence** in the same manner as the plaintiff or state, and the plaintiff or state in return has the right to cross-examine the defense's witnesses. Re-direct and re-cross examination also are permitted.

After that the plaintiff or state can present **rebuttal witnesses** or evidence **to refute** evidence presented by the defendant. Then the defense may also present additional evidence.

During the trial the lawyers may **ask permission to speak to the judge**, or the judge may **call both lawyers to the bench**. These are called **bench conferences** or **sidebars** that deal with **questions of procedure** or concern issues of **admissibility of evidence**, which are for the judge to decide. Bench conferences are conducted out of jurors' hearing but everything said will be recorded by the court reporter.

At the end of a trial the lawyer for plaintiff or state presents the first **closing argument**, or **summation**. The lawyer sums up and comments on the evidence in the most favorable for his or her side way. Then the defense presents its closing arguments usually answering statements made in the plaintiff's arguments and pointing out defects in the plaintiff's case. Because the plaintiff or state has the burden of proof, its lawyer is then entitled **to make the concluding argument** to respond to the defendant and make a final appeal to the jury.

After closing arguments, the judge **instructs the jury** as to the relevant laws that should guide its deliberations. After receiving the instructions, the jury **retires to the jury room to reach a verdict**. One of the jurors is elected **to act as the foreman**. If **the jurors cannot agree on a verdict**, which in the most criminal cases must be **unanimous**, it leads to a **mistrial** and

such a jury is called a hung jury. The case is not decided, and it may be tried again at a later date before a new jury.

If a decision is reached, the jury **notifies** the bailiff, who **informs** the judge and either the foreman or the court clerk **announces** the decision. Possible **verdict in criminal cases are “guilty” or “not guilty”**. In a **civil suit**, the jury will **find for the plaintiff** or the defendant. The decision of the jury does not take effect until the judge entered a judgment on the decision. If the plaintiff wins the case the jury will also usually set out the amount of damages. If the defendant is convicted in a criminal case, the judge will set a date for sentencing. It is solely the judge’s function to determine the sentence to be imposed, as long as the sentence falls within the possible punishment set forth in the statutes.

13. Study the following polysemous words in their context in the text (search for underlined words) and match each one to the best context meaning a) or b):

- |                  |                     |                                       |
|------------------|---------------------|---------------------------------------|
| 1) to believe    | a) вірити, довіряти | b) вважати, думати                    |
| 2) original      | a) основний         | b) оригінальний, новий                |
| 3) to challenge  | a) викликати        | b) давати відвід                      |
| 4) to excuse     | a) вибачати         | b) звільняти                          |
| 5) the defendant | a) відповідач       | b) обвинувачуваний                    |
| 6) liability     | a) відповідальність | b) обов’язок                          |
| 7) to suggest    | a) пропонувати      | b) наводити на думку,<br>говорити про |
| 8) to reach      | a) виносити         | b) розповсюджуватися                  |

14. Read the text (Ex.12) again and write down Ukrainian equivalents for the words and phrases in bold type.

15. Complete these sentences with the words from the text above.

1. The job of a jury is to listen to ... and to reach a ... .
2. Process by which a lawyer questions a witness called to testify by the other side is called ... .
3. When a ... has been reached the

foreman ... the decision. 4. Attorney who represents the defendant is called ... 5. The judge gives the ... to the jurors on the laws that are to guide the deliberations. 6. The witnesses cannot testify to .... 7. The opposing counsel may make ... to the leading questions. 8. On cross-examination the attorney tries to ... the witness or the evidence. 9. There are two types of evidence – ... and ... . 10. The plaintiff can present rebuttal witnesses to ... evidence presented by the defendant. 11. Each lawyer has a specific number of ... . 12. A typical ... begins with jury selection through the process of ... .

*16. Arrange these stages of a trial in the right logical order according to the text.*

Rebuttal; instruction to the jury; presentation of evidence by the defence; sentencing; opening statement of the defence; jury selection; entering the judgment; closing arguments; announcement of the decision; presentation of evidence by the prosecution; opening statement of the prosecution or the plaintiff; jury deliberations;

*17. Fill in the gaps with preposition, if necessary. If you need, consult the text above.*

1. The knife was introduced ... evidence. 2. Witnesses may testify ... matters of fact. 3. The prosecuting attorney's objection ... leading question was sustained by the judge. 4. Ten jurors were dismissed ... cause by the prosecution. 5. At the end of a trial representatives of both parties have an opportunity to sum ... and comment ... the evidence. 6. In the most criminal cases the jury must reach ... a unanimous verdict. 7. Witness cannot testify ... hearsay. 8. After both parties have agreed ... a jury, the jurors are sworn ... by the court clerk. 9. The defence attorney challenged the potential juror because he was believed to be prejudiced ... the defendant. 10. In a civil trial, the plaintiff is the party ... the burden ... proof. 11. The defence in its closing argument pointed ... defects ... the plaintiff's case. 12. The jurors couldn't agree ... a verdict and the judge pronounced a mistrial. 13. In a criminal

trial, the burden of proof rests ... the state. 14. One of the jurors should be elected to act ... the foreman. 15. In this case the jury found ... the plaintiff, but the judge didn't enter ... a judgment ... the decision.

18. Change words and word combinations in *italic* by ones with the similar meanings. Choose from the words given in the box.

To dismiss; submission; point of view; to inform; party; issue; summation
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1. Each lawyer may *challenge* an unlimited number of jurors for cause. 2. Witnesses testify just to *matters* of fact. 3. The main stage of a trial is *a presentation* of evidence. 4. When a decision is reached, the jury *notifies* the bailiff. 5. Witnesses cannot state their *opinions* unless they are experts. 6. At the end of a trial each lawyer presents *closing argument* in the most favourable for his or her *side* way.

19. Group the items given below into the following categories: *criminal trial; civil trial; jury; witness; judge; evidence*. Explain your choice. Use the text above to add some words to each category.

A confession; sentencing; accused; to prove guilt; a juror; expert; leading question; the burden of proof; a weapon of a crime; venire; to overrule; testimony; beyond a reasonable doubt; alternative juror; suit; to reach a verdict; preponderance of evidence; circumstantial; prosecutor; to sustain; eyewitness; to be dismissed for cause; plaintiff; to enter a judgment; a foreman; to impose the sentence; damages.

20. Find in the text (Ex.12) English equivalents for the following words and phrases and use them in your own sentences:

- 1) присяжный основного складу;
- 2) вибирати навмання;
- 3) висловлювати протест;

- 4) свідчити з чужих слів;
- 5) вступна промова;
- 6) підтримати або відхилити протест;
- 7) непрямі докази;
- 8) представляти в якості доказів; приєднувати (долучати) до доказів;
- 9) виголосити вердикт;
- 10) показання свідків;
- 11) підводити підсумки та коментувати (висловлювати думку про) докази;
- 12) обов'язок доведення;
- 13) сторона в судовому процесі;
- 14) робити висновок, ґрунтуючись на фактах, які є доказами (на доказах);
- 15) виносити рішення із занесенням його у відповідне провадження;
- 16) набирати чинності;
- 17) встановлювати розмір відшкодування збитків.

### Step 3. Post-reading tasks:

21. *Continue a list of words and phrases associated with the topic "Trial".*

TRIAL: court; judge; civil case; prosecutor ...

22. *Using the vocabulary of this Unit write a short narrative concerning the main points and distinctive features of the trial procedure in the USA.*