

Chapter 2

Common Law: The Courts

CHAPTER OUTLINE

Key Terms

Introduction

Henry II

The Magna Carta

Sir Edward Coke

Sir William Blackstone

Common Law in the United States

U.S. Court Systems Today

Federal System

U.S. Court of Appeals

U.S. District Courts

U.S. Magistrates

Participants in a Criminal Case

Trial Judge

Defendant

Prosecuting Attorney

Law in Action: The Case of Wen Ho Lee

State Attorney General

Defense Counsel

The Right to Represent Oneself

Privileged Communication

Clerk of the Court

Bailiff
Court Reporter
Court Commissioners
English Court System Today
Court of Queen's or King's Bench
Supreme Court of Judicature
Magistrates' Court
Crown Court
Royal Courts of Justice
Comparisons between the United States and the United Kingdom
Practice of Law
Canadian Legal System
Court Structure
Provincial and Territorial Superior Courts
Provincial and Territorial Courts
The Judiciary
Right to Fair Trial versus Freedom of the Press
Scottish Legal System
Australian Legal System
Legal System
Classification of Crimes
Summary
Questions in Review

TEACHING OUTLINE

- The common law system was established from a case-to-case approach.
- At first, English common law developed as essentially feudal land law, and later in its formative years was shaped and defined by the French invaders.
- The Magna Carta, signed by King John in 1215, was the forerunner of many of the protections involving individual rights.
- Coke, one of the most eminent jurists in the history of common law, issued volumes of reports on common law principles.
- For centuries, Blackstone's Commentaries have been considered a source of the laws of England.
- When English settlers came to America in the 1600s, they brought with them the English common law.
- There are two court systems in the United States, federal and state.
- The term "dual federalism" is used to describe the concept of the federal and state systems.
- The justice system in the United States and England is considered an adversary system in that there are two sides and the judge acts as the umpire or referee.
- In the United States, many aspects of criminal procedure are controlled by the U.S. Constitution and the judicial interpretation of the Constitution.

- The U.S. Constitution provides that a defendant has the right to the assistance of counsel.
- Communications between a U.S. defense attorney and his or her client are generally considered privileged communications.
- The English court system has a unitary judicial system in which all the courts fit into a single national hierarchy.
- The English Supreme Court of Judicature consists of the Court of Appeal and the High Court of Justice.
- In the United States, the systems rely on a due process model that emphasizes the rights of defendants, while the English system stresses crime control.
- English courts do not have the exclusionary rule.
- In Canada, responsibility for various parts of the criminal justice system is shared and divided among the federal, provincial, and municipal levels of government.

TEST BANK

True/False

1. A retained counsel in the U.S. courts is one that is appointed by the judge. [F]
2. Henry II was forced to sign the Magna Carta in 1215. [F]
3. Sir Edward Coke was famous for his *Commentaries on the Laws of England*. [F]
4. Blackstone still has a strong influence in U.S. Courts. [T]
5. The United States has a dual court system. [T]

6. Most criminal cases in the United States are tried in federal courts. [F]
7. The English courts use the exclusionary rule to control police misconduct. [F]
8. The magistrates' court in the United Kingdom is concerned primarily with criminal jurisdiction. [T]
9. Canada is a federalist country. [T]
10. The courts in Canada are organized in a four-tiered structure. [T]
11. Scotland's legal model is different from the one in England. [T]
12. The Scottish system is considered more welfare oriented than the English system. [T]

Multiple Choice

1. The highest level of court in Canada is the
 - a. provincial court.
 - b. federal court.
 - c. district court.
 - d. supreme court. [d]
2. Author of the *Commentaries on the Laws of England*
 - a. Jeremy Benton
 - b. Henry II
 - c. Sir Edward Coke
 - d. William Blackstone [d]
3. Which one of the below courts is considered as one of the basic trial courts in the U.S. federal system?
 - a. U.S. Magistrate's Court of the State of California
 - b. U.S. Court of Appeals for the Ninth Circuit
 - c. U.S. District Court for the Central District of California
 - d. U.S. District Court for the City of New York [c]

4. A defendant in a criminal trial in the United Kingdom is guaranteed certain rights by
 - a. the English constitution.
 - b. case law and statutes.
 - c. the constitution and case law.
 - d. the constitution, case law and statutes. [b]
5. Advocates before the English High Court is limited to
 - a. barristers.
 - b. solicitors.
 - c. both barristers and solicitors.
 - d. general counsel. [a]

Short Essay

1. What are the major differences between the United States and the United Kingdom court systems?
2. Who are the major participants in a court trial in a New York state criminal court?
3. How did the common law system develop?
4. Explain the importance of William Blackstone.
5. What role does U.S magistrates play in the federal judicial system?
6. Explain the differences between the Scottish system and the English system.