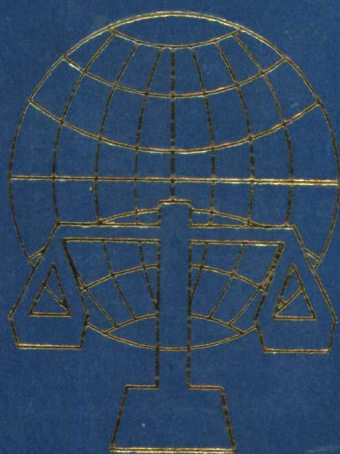


法律学全书

法学英语

LEGAL ENGLISH

主编：罗俊明



上海外语教育出版社

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法 学 英 语

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主 编 罗俊明

副主编 严令常 宋永新

上海外语教育出版社

Shanghai Foreign Language Education Press

(沪)新登字 203 号

法律学全书
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上海外语教育出版社出版发行
(上海外国语大学内)
上海天华印刷厂印刷
新华书店上海发行所经销

开本 850×1168 1/32 19 25 印张 524 千字

1994 年 6 月第 1 版 1994 年 6 月第 1 次印刷

印数: 1 5 000 册

ISBN 7-81009-914-0/G·373

定价: 11.80 元

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Lesson One

Text

Trial

When a person is accused of stealing or committing some other crime, he or she is brought before magistrates or a judge and jury. There the police or a lawyer describe the crime and call any witnesses—people who saw the man doing it, or who can say anything else about the crime—to say what they saw. The person defends, or explains himself, and in a serious matter he has a lawyer to help him, unless he chooses to conduct his own defence (do everything himself). The judge and jury or the magistrates are called the court, and what happens in the court is the trial.

The idea of a trial is a very old one and trials of different kinds were held long before the courts as we know them today had come into being. In ancient times, two men who had a disagreement might have been asked to take part in a trial by combat. They fought and whoever won was judged to have been in the right. The idea that the gods would favour whoever was in the right also lay behind the idea of trial by ordeal. If someone was accused of theft, for example, he would be made to undergo some painful ordeal to see if he was guilty or innocent. Rather similar was the notion that it was possible to tell if a woman was a witch by ducking her in water. If she sank,

she was innocent; if she was "cast up" by the water and floated, she was guilty of witchcraft.

Today, what happens in a court during a trial differs from country to country. But in most cases the court starts with the belief that the person accused is innocent until proved guilty. It is up to the prosecutor (the police or prosecuting lawyers) to prove that the accused committed the crime.

This article describes briefly what happens in a trial in Great Britain. In less serious cases the magistrates' courts often decide the case themselves. However, let us suppose that a man is caught in London driving a motor car that has been reported to the police as being stolen. He is brought before magistrates who order that he shall be tried (sent for trial) at the Central Criminal Court¹, known as the Old Bailey².

When the time of the trial comes the prisoner is brought up from the cells and put in the dock. The first thing that happens in court is that the prisoner is arraigned; that is, the clerk of the court (often called the clerk of arraigns³) calls out his name and reads out to him the charge or charges he has to answer. The charges are set out in a document called the indictment, and at the end of each separate charge the clerk asks the prisoner whether he pleads "Guilty" or "Not Guilty". One of three things may then happen. The prisoner may plead guilty to all the charges, or not guilty to each of them, or he may plead guilty to some but not to others.

If the prisoner pleads guilty to all the charges, the question is how he shall be punished. A police witness says whether the prisoner has been found guilty of any other crimes in the past and how he has been punished. The prisoner or the barrister (lawyer) defending him calls anyone who can say anything to help the prisoner; as, for example, that he is a good worker who has got into money difficulties through being

ill. Then the defending barrister or the prisoner himself makes a speech called a "speech of mitigation", giving reasons why the prisoner should be treated gently. Finally, after the judge has asked the prisoner himself whether he has anything to say as to why sentence should not be passed on him, the judge speaks to the prisoner and tells him what his punishment is to be.

If the prisoner only pleads guilty to some of the charges, the prosecution (the lawyers who are trying to prove him guilty) have to decide whether it is worth while going on with the other charges. If the judge agrees, they may decide to give up those charges and simply let him be punished for those to which he pleads guilty.

If the trial goes on to decide charges to which the prisoner pleads not guilty, a jury has to be sworn. Each member of the jury promises to bring in a true verdict, or decision, according to the evidence. A speech is then made explaining the charge to the jury and telling them what the prosecution witnesses have to say. Then those witnesses have to be called to prove who owns the car, that the prisoner was seen driving it away, that he altered the number-plates so that the car could not be recognized, or that he had it painted a different colour—showing that he intended to keep it. The witnesses will probably be cross-examined by the defence to see if they are telling lies, if their memories are unreliable, or if they can give other evidence to help the prisoner's case.

When the prosecution has finished, the witnesses for the defence (including the prisoner himself) may be called. The prisoner may say that his employer told him to drive the car, and that he had nothing to do with altering the number-plates or the colour; and other witnesses may be called to support him. The witnesses for the defence will usually be cross-exam-

ined by the prosecution.

After final speeches to the jury from both defence and prosecution, the judge will “sum up” or go through the facts of the case and explain the law to the jury. The jury will then leave the court and consider what their verdict is to be. When they have decided they return, and the forman of the jury announces the verdict. If the verdict is “not guilty”, the prisoner is set free. If he is found guilty, the same things happen as though he had pleaded guilty.

In a civil action—which involves a disagreement, not a crime—much the same things happen, although nowadays there is seldom a jury. The judge decides at the end who has won.

New Words and Expressions

trial ['traɪəl] *n.* 审问, 审判; bring sb. to (或 up for) ~ 审问某人

人/ ~ by jury 由陪审团进行的审判

the accused [ði ə'kju:zd] *n.* 被告

commit [kə'mɪt] *vt.* 犯(错误, 罪); 判处; 责成做某事

crime [kraɪm] 犯罪, 罪行; a capital ~ 死罪/commit a ~ 犯罪

magistrate ['mædʒɪstrɪt] *n.* 地方法官, 治安法官

judge [dʒʌdʒ] *n.* 审判员, 法官

jury ['dʒʊəri] *n.* 陪审团

witness ['wɪtnɪs] *n.* 证据, 证人 *vt.* 目睹, 证明 *vi.* 作证人,

成为证据

defend [dɪ'fend] *vt.* 为……辩护, 为……答辩

court [kɔ:t] *n.* 法院

ordeal [ɔ:'di:l] *n.* 神裁法

guilty ['gɪlti] *a.* 有罪的 *n.* guilt [gɪlt]

innocent ['ɪnəsnt] *a.* 无罪的

prove [pru:v] *vt.* 证明, 证实 *vi.* 证明是

prosecute ['prɒsɪkjʊ:t] *vt.* 告发, 对……起诉 *vi.* 起诉, 作检

察官

prosecutor [ˈprɒsɪkjʊ:tə] *n.* 原告, 检举人; a public ~ 检察官

prosecution [prəˈsɪkjuːʃən] *n.* 起诉, 告发, 检举; [总称]原告及其律师; 检察当局

dock [dɒk] *n.* 刑事审判庭的被告席; be in the ~ 在受审

arraign [ə'reɪn] *vt.* 传讯, 提审, 控告

charge [tʃɑːdʒ] *n.* 指控; bring a ~ of ... against sb. 指控某人某罪

document [ˈdɒkjʊ:mənt] *n.* 公文, 证件; 证券

indictment [ɪn'daɪtmənt] *n.* 控告, 起诉; 诉状; bring in an ~ against sb. 控告某人/a bill of ~ 起诉书

plead [pli:d] *vi.* 辩护, 抗辩; ~ for sb. 为某人辩护/~ against sb. 反驳某人; /~ to a crime 服罪

barrister [ˈbærɪstə] *n.* [英](出席高等法庭的)律师

swear [swɛə] *vt.* 宣(誓); ~ an oath 宣誓; 使宣誓; ~ (in) a witness 令证人宣誓/~ a jury 使陪审团宣誓就职

verdict [ˈvɜːdɪkt] *n.* 陪审团裁决; 事实认定(书)

evidence [ˈeɪdəns] *n.* 证据

cross-examine [krɒs ɪg'zæmɪn] *vt.* 盘问, 反询问

sum up [sʌm ʌp] 概述(证据)

civil [ˈsɪvl] *a.* 民事的

action [ˈækʃən] *n.* 诉讼; bring an ~ against sb. 对某人起诉

Notes

1. Central Criminal Court 中央刑事法院
2. Old Bailey [英]中央刑事法院俗称(因所在地而得名)
3. the clerk of arraigns [英]巡回法庭助理书记官
4. speech of mitigation 减罪辩护(词)

Exercises

1. Multiple Choice:

- 1) "The judge and jury or the magistrates are called the court" means that _____.
 - A. they are named the court.
 - B. they are considered the court.
 - C. they are summoned to the court.
- 2) "To conduct his own defence" means _____.
 - A. to do everything himself.
 - B. to keep himself from harm.
 - C. to defend himself in the court.
- 3) Trials of different kinds appeared _____.
 - A. when courts in law existed.
 - B. before courts in law existed.
 - C. after courts in law existed.
- 4) In ancient times, _____ were kinds of trial.
 - A. combat between the 2 parties and ducking the accused in water
 - B. ordeal and questioning
 - C. investigating and questioning
- 5) The principle that the person accused is innocent until proved guilty is accepted by _____.
 - A. all the jurists in the world.
 - B. some of the jurists in the world.
 - C. most of the jurists in the world.
- 6) It is the duty of _____ to prove that the accused committed the crime.
 - A. the judge
 - B. the jury