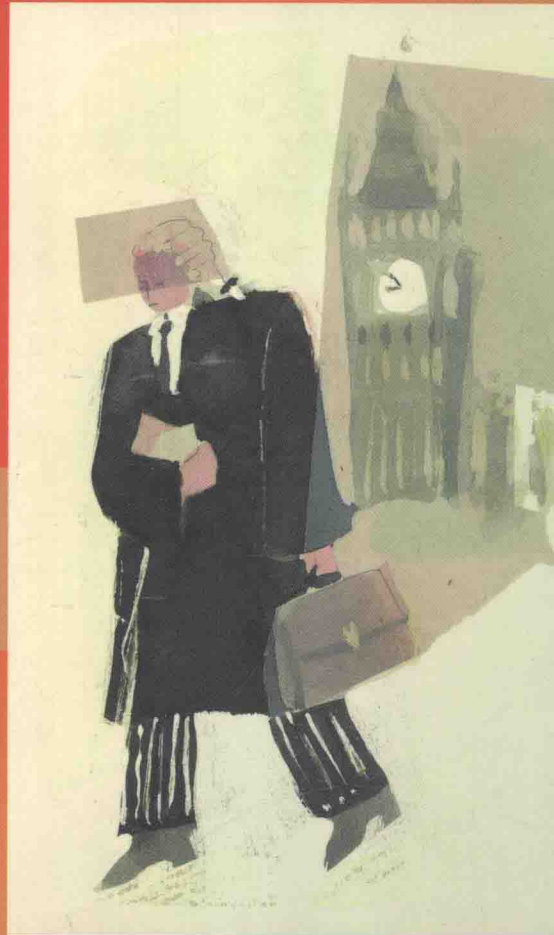


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# Introduction to **The English Legal System**

Third Edition

Martin  
Partington



# AN INTRODUCTION TO THE ENGLISH LEGAL SYSTEM

*Third Edition*

MARTIN PARTINGTON

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# Foreword

I am delighted to have been asked to write this foreword to the third edition of Professor Partington's *Introduction to the English Legal System*.

I believe strongly that there needs to be much greater public understanding of law and the legal system. Public legal education is a vital component of modern citizenship. This was an issue I was anxious to promote while I was chair of the Civil Justice Council. I fully support the ambitions of the Department of Constitutional Affairs to promote public legal education.

Public legal education cannot happen without appropriate educational materials being available. Much legal writing is, of necessity, rather heavy going and daunting for the non-specialist. But there is also a very important place for introductory books which, while not going into every last detail, can engage the non-specialist reader.

In my view, Martin Partington has succeeded admirably in providing a text which both explains things clearly, and encourages the reader to think about the enormous changes currently affecting the legal system. He has been able to draw on his experience not only as a teacher of law, but also as law reformer and contributor to the work of many important committees.

I wish the new edition every success.

Phillips of Worth Matravers  
Lord Chief Justice of England and Wales

## Preface to the third edition

It is only three years since I completed the second edition of this book. Despite this relatively short time, there has been an enormous amount of change, which has to be reflected in the text. The whole book has needed revision and updating. Among the most significant changes have been:

- creation of the Department of Constitutional Affairs, to replace the Lord Chancellor's Department (Chapter 4);
- establishment of Her Majesty's Court Service (Chapter 4);
- creation of the new Judicial Office for England and Wales (Chapter 4);
- establishment of the Office of Criminal Justice Reform (Chapter 5);
- creation of the new Tribunals Service (Chapter 6);
- founding of the Family Justice Council (Chapter 7);
- creation of a new Supreme Court (Chapter 8);
- proposals for creation of a new Legal Services Board (Chapter 9);
- establishment of the Judicial Appointments Commission (Chapter 9);
- proposals for the reform of legal aid (Chapter 10).

The aims of the book remain the same—to provide all those coming new to the study of law, whether at A-level, degree level or postgraduate conversion level, with an overview of the context within which law is made and practised in England and Wales; to provide a text that is as approachable as possible; and, more generally, to create a resource for those teaching citizenship in schools which can inform and encourage a key part of the National Curriculum.

I have taken the opportunity to further develop certain features of the book designed to encourage readers to explore issues that interest them more fully, and to think critically about what they have read. These innovations include:

- posing questions for discussion and reflection at the end of each chapter;
- providing suggestions for further reading at the end of chapters;
- offering references to relevant websites.

More detailed descriptions and other suggestions for further reading are available on the book's Online Resource Centre at [www.oxfordtextbooks.co.uk/orc/partington3e/](http://www.oxfordtextbooks.co.uk/orc/partington3e/). Additional information about websites is also provided there. Information about new sites which you find interesting but which are not mentioned in the text may be fed back to me through the ORC.

Since completing the second edition, my term of office as law commissioner for England and Wales has come to an end. I was appointed special consultant to the Law

Commission for two years from 1 January 2006. I have also been asked to act as research adviser to Lord Justice Carnwath, president designate of the new Tribunals Service. As with previous editions, it must be emphasized that I write here in a purely personal capacity. None of the official bodies with which I am or have been associated is to be taken as agreeing with what I have written here.

As always, my debt to friends and colleagues is enormous. I am particularly grateful to the Lord Chief Justice for agreeing to write the foreword to this third edition. At the risk of offending others, I would like to offer special thanks to two people who have helped clarify ideas or provided new insight: Robert Musgrove, the indefatigable chief executive of the Civil Justice Council, whose work behind the scenes for the development of the civil justice system has been tireless; and Professor Hazel Genn, CBE, at University College London, whose empirical studies into aspects of the work of the English legal system are essential for any understanding of the legal system. At Oxford University Press, Melanie Jackson has presided over the preparation of this edition with tact and courtesy. I thank her and others involved in the production of this book. I am also most grateful to the anonymous referees who, as part of OUP procedures, commented on the strengths and weaknesses of the second edition. While I may not have fully incorporated their comments, they all provoked thought and reflection. I remain responsible for all errors and omissions.

London  
9 December 2005

## Preface to the first edition

The original proposal that I should write this book came from Professor Peter Cane when he, with Professor Jane Stapleton, were editors of the Clarendon Law Series, published by Oxford University Press. Though it has now been decided that the book should not appear in that series, I have nonetheless adhered to my initial instructions. These were that the book should: be genuinely introductory; be around 200 pages long; be relatively uncluttered by footnotes; be accessible to the more general reader; but at the same time offer an approach to thinking about the English legal system and its place in society not found elsewhere. With these strictures in mind, this book has been written particularly for those coming to the study of law for the first time. I also hope that others, keen to look behind the magical veil that all too often shrouds the legal system and its actors in mystery, will find the book of interest. It is, in short, intended for all those interested in the phenomenon of law and the important role it plays in the ordering of our society but without any detailed knowledge of it.

Over the last thirty or so years, I have been associated with a wide range of bodies and institutions, from whom I have learned much and who have helped to inform my ideas about the English legal system and the forces that shape it. They include, at different stages, and for different lengths of time: the Hillfields Advice Centre in Coventry; the Legal Action Group; the Training Committee of the Institute of Housing; the Management Committees of Citizens' Advice Bureaux in Coventry, Paddington and Uxbridge; the Education Committee of the Law Society; the Lord Chancellor's Advisory Committee on Legal Aid; the Independent Tribunal Service for Social Security Appeal Tribunals; the Judicial Studies Board (both the main Board and its Tribunals Committee); the Council on Tribunals; the Civil Justice Council (and its sub-committee on Alternative Dispute Resolution); the Committee of Heads of University Law Schools; the Socio-Legal Studies Association; and the Socio-Legal Research Users' Forum. I am grateful to the numerous friends and colleagues from all these bodies—too numerous to list here—for their generosity of spirit, enthusiasm, and sheer hard work in the development of the practices and institutions of law in England.

I also thank my colleagues at Bristol for their support, in particular Rebecca Bailey-Harris, David Cowan, Gwynn Davies, Clare Lewis, Donald Nicolson, Stratos Konstadinidis and Andrew Sanders. I am grateful to successive generations of students at Bristol, and before then Brunel, Universities to whom I offered instruction in English Legal System and English Legal Methods for their critical responses to what I have had to say. I have been particularly fortunate that, as part of the writing process, I was able to deliver early versions of this text as introductory lectures to first year students at the University of Bristol; and to discuss them in an informal 'reading group'. They helped me determine important questions of structure and content. I

am most grateful to all those who offered their comments. However, I remain wholly responsible for what follows.

My editor at Oxford University Press, Michaela Coulthard, has been a model of tolerance as I have failed to meet a variety of deadlines.

I am not sure that my children Adam and Hannah have ever been particularly conscious of what I do in my professional life. Nonetheless I am grateful to both for allowing me to share some of my initial thoughts about this book with them. They were particularly encouraging at times when encouragement was needed. As always I am especially indebted to Daphne for her insistence that I retain a sense of balance in my life.

I have sought to bring the text up to date to the date shown below.

Bristol  
27 April 2000



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