

## Практическое занятие № 9

**Тема: Системы общего права и гражданского права.**

**Цель:** Совершенствование и развитие навыков перевода текста с целью извлечения информации на английском языке.

### **Содержание работы:**

1. Прочитать текст, выписать слова, обозначенные жирным шрифтом с переводом.
2. Выполните лексические упражнения 2-4 в соответствии с прочитанным текстом.

**Ex 1. 1. Write down the words in bolded type and translate them with the help of a dictionary.**

### **COMMON LAW**

Common Law, term used to refer to the main body of English **unwritten law** that evolved from the 12th century onward. The name comes from the idea that English medieval law, as administered by the **courts of the realm**, reflected the “common” customs of the kingdom. This system of law prevails in Britain and in those countries, such as Canada and the United States, that were originally colonized by English settlers.

### **THE LEGAL SYSTEM**

The common law is based on the principle of deciding cases by reference to previous judicial decisions, rather than to written statutes drafted by legislative bodies. Common law can be contrasted to the civil-law system, based on ancient Roman law, found in continental Europe and elsewhere. Whereas civil-law judges resolve disputes by referring to statutory principles arrived at in advance, common-law judges focus more intently on the facts of the particular case to arrive at a fair and equitable result for the litigants.

As the number of **judicial decisions** accumulate on a particular kind of dispute, general rules or precedents emerge and become guidelines for judges deciding similar cases in the future. **Subsequent cases**, however, may reveal new and different facts and considerations, such as changing social or technological conditions. A **common-law judge** is then free to depart from precedent and establish a new rule of decision, which sets a new precedent as it is accepted and used by different judges in other cases. In this manner, common law retains a dynamic for change. As the U.S. Supreme Court Justice Oliver Wendell Holmes, Jr. wrote in his book, *The Common Law* (1881): “The life of the [common] law has not been logic; it has been experience.”

In all common-law systems, a **pyramidal structure of courts** exists to define and refine the law. At the base of the pyramid is trial courts, composed of a single judge and a jury selected from local citizens. The judge controls the conduct of the court and the admission of evidence. After both sides have presented their evidence, the judge instructs **the jury** on the **appropriate legal principles** to be applied in determining the case. The jury then weighs the facts and applies the law, as stated by the judge, in order to reach a verdict or judgment.

Above the trial courts, layers of appellate courts, composed entirely of judges, exist to adjudicate disputes. These **disputes** center on whether or not the trial judge applied the correct principles of law. (The jury's determination of fact and its ultimate verdict or judgment are not subject to appellate review, however, in order **to preserve the independence** of the jury as a check on judicial power.) The interpretations of law made by **appellate courts** form the precedents that govern future cases. Furthermore, the importance of a precedent for any given court depends on that court's position in the pyramidal structure; for example, a precedent set by **an appellate court** has greater force in trial courts than in other appellate courts.

### **REPORTING THE UNWRITTEN LAW**

Common law has been known as unwritten law, because it is not collected in a single source. Reports of the **judicial decisions** from which the common law was derived were only occasionally circulated from the 12th to the 16th century. Starting in the 17th century formal reports of some decisions were published by private parties. These early reports were supplemented by **infrequent scholarly treatises** summarizing large segments of the case law, such as those of Sir Edward Coke (published in 1628) and Sir William Blackstone (1765-69). As reporting improved, the influence of these treatise writers diminished. In the 19th century the courts themselves took responsibility for publishing judicial decisions in both Britain and the U.S. It is primarily decisions of **appellate** rather than trial courts that are published.

### **COMMON LAW IN ENGLAND**

Common law is distinguished from other forms of judge-made law from **parallel court systems**. In medieval times, for example, common-law courts were secular, as contrasted with **the ecclesiastical courts** of the Roman Catholic church. Common-law courts did not deal with merchant law, which was administered in mercantile courts, or with maritime law, administered in the admiralty court.

The most important parallel system was **equity jurisdiction**. Equity originated in early English law when subjects petitioned the monarch for justice. Such petitions were delegated to **the lord chancellor** and later to a **tribunal** called the court of chancery. Equity grew into a special body of rules over and above those administered in other royal courts of law. At first, **common-law courts** were more bound by precedent than were courts of equity, which provided remedies based on notions of fairness to litigants who were denied relief on technical grounds under common law.

By the end of **the medieval period**, common law and equity constituted the **vast bulk of all English law**. As common law became less formal and as equity accumulated its own set of precedents, these two forms of **judge-made law** grew closer together. Britain abolished the distinction between common law and equity in the

Judicature Act of 1873. The ultimate effect of the growth and absorption of **equity jurisdiction** was to gradually expand the range of disputes that could be adjudicated in formal courts.

During and after the Industrial Revolution, in response to the growing complexity of law and the need for greater clarity and accessibility, the British Parliament asserted itself as **the principal source of new law**, modifying and adding to the body of judge-made law by statute. In modern times, the statutes of Parliament have come to encompass most legal relationships. The common law, however, remains in force to help interpret statutes, many of which are primarily restatements of common-law rules and principles

### COMMON LAW IN THE UNITED STATES

Most of the British common law as it existed at the time of the American Revolution became the foundation of a distinctly American system of law. Common law has varied from state to state, but only one state, Louisiana, differs significantly from the rest, basing its system on the French **civil-law model**. In each state the highest appellate court, usually the state supreme court, is the ultimate arbiter of the common law, subject to alterations by legislative action. The U.S. Supreme Court is the ultimate arbiter of all federal law and of the U.S. Constitution, which is superior to all other laws. As in Britain, **statutory law** has largely supplanted common law in state and federal systems, although common law is still **influential**. The order of authority of law in the United States, is the Constitution, treaties with foreign powers and acts of Congress, state constitutions, state statutory law, and finally the common law.

#### 2. Fill in the gaps with an appropriate word. Заполните пробелы подходящим словом, переведите полученные предложения.

1. Lawyers often help people to reach just **agreement (agree)**.
2. After long \_\_\_\_\_ they made a decision (**discuss**).
3. Each citizen has rights and \_\_\_\_\_ (**oblige**).
4. I think the decision is \_\_\_\_\_ (**justice**).
5. It is not easy to give a \_\_\_\_\_ of justice (**define**).
6. In the modern world countries \_\_\_\_\_ more and more (**cooperation**).
7. It is important to make legal standards \_\_\_\_\_ (**internationalize**).
8. In many cases we have to follow \_\_\_\_\_ (**regulate**).
9. The answer was entirely \_\_\_\_\_ (**satisfaction**).
10. I cannot accept your \_\_\_\_\_ (**refuse**).

#### 3. Determine if the sentences are true or false, according to the text.

1. Common Law, term used to refer to the main body of English unwritten law that evolved from the 15 th century. a) true b) false.
2. The system of law prevails in Britain and in those countries, such as Canada and the United States, that were originally colonized by English settlers. a) true b) false.
3. Common law can be contrasted to the civil-law system, based on ancient Roman law.  
a) true b) false.
4. In all common-law systems, a pyramidal structure of courts exists to define and refine the law.  
a) true b) false.
5. The judge controls the conduct of the court and the admission of evidence. a) true b) false.
6. Common law has been known as unwritten law, because it is not collected in a single source.  
a) true b) false.
7. Starting in the 17th century formal reports of some decisions were published by civil parties.  
a) true b) false.
8. In the 20th century the courts themselves took responsibility for publishing judicial decisions in both Britain and the U.S. a) true b) false.
9. In medieval times common-law courts were secular, as contrasted with the ecclesiastical courts of the Roman Catholic church. a) true b) false.
10. The British common law became the foundation of a distinctly American system of law.  
a) true b) false.

#### 4. Match the words and translate them.

judicial	responsibility for
legislative	merchant law
take	precedents
deal with	statutes
set of	bodies
interpret	supreme court
the state	decisions
foreign	effect
ultimate	parties
private	powers and acts