

The British Legal System

(Former title Comparative UK and US Constitutional Law)

Denis Carey

CAS PO 534

Core Phase – Core Class for Prelaw Track

I. Class Description: **CAS PO 534**

Name of Class: Formerly “Comparative UK and US Constitutional Law”;
now re-titled “**British Legal System**”

Credit Hours: Four

II. Course Description

This core course for the Pre-Law track will provide an introduction to the history and the development of the British legal system. Its aim is to describe the evolution of the Common Law of England, the legal system of England and the legal profession of England and to introduce you to the study of constitutions as law as well as to the legal aspects of constitutional systems of Government. The course will also examine the influence of the British common law/legal system on the development of the common law/legal system of America.

III. Course Objectives: -

- Law and custom in early Britain and the impact of the Norman conquest will be reviewed in outline
- The origins of the common law and the English system of courts will be outlined
- The development of the legal profession itself will be examined in detail
- The contemporary British Legal System will be studied in depth. The British legal operating vocabulary, current legal trends and local legal peculiarities will be examined so as to be of use to students in their work placements
- How the English Common Law came to be transplanted in America will be looked at as well as reviewing, as a comparative exercise, how the “English” tradition has changed direction in the US during the nineteenth, twentieth and twenty-first centuries

IV. Instructor Information

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| A. Name | Denis Carey |
| B. Location | Adjunct faculty |

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| C. Office Telephone | 01949 822839 |
| D. Mobile | 07973 625 118 |
| E. Email | dcarey@nybar.co.uk |
| F. Office Hours | 9-5 Monday to Friday if not in class |
| G. Methods | A lecture/discussion/field trip based theoretical and practical approach to English Law and the English Legal Profession (including the judiciary). This course has been designed to give students a thorough overview of the English Legal System |

Reading:

1. Alder Constitutional & Administrative Law 6th ed. 2007
2. Slapper The English Legal System 8th ed. 2006
3. Ad hoc readings as distributed in class

You are expected to have read the set reading for each class session (with the exception of Session One). You may be advised of further reading during the course, particularly with regard to assisting you with your paper.

Please ensure that you read, on a daily basis, a “serious” British broadsheet newspaper such as the Daily Telegraph, Financial Times or, for a left-of-centre perspective, The Guardian. The Times and the Independent are alternatives. There are also excellent weekly journals such as The Economist, The New Statesman and Society etc. Try to watch relevant current affairs programmes on television such as Newsnight or Channel Four News. Reading and viewing these will keep you abreast of rapidly changing developments.

Course Assessment

There will be an end-of-course 2-hour seen final examination worth 60% of your final grade. You will be required to answer two from a choice of four essay questions. Suggested approach: 10/15 minutes outlining answer, 40/45 minutes writing answer/ Indicative length – 3.5 pages, not to exceed 4.5 pages per question. Closed book. The grade you receive will be based upon:

- The relevance of your answer to the question/topic set/to be discussed
- Clarity of expression and continuity
- Evidence of reading and thought related to the question/topic
- Quality of the arguments presented

You will also be required to write a 2500 word paper based on work done in addition to class-based topics, to be handed in at the last teaching class. The paper topic is “Let Well Enough Alone? The case for or against a Supreme Court for England & Wales” There is no choice of paper topic. The paper will count

40% towards the final course grade. The grade you receive will be based upon the bullet points just above and upon, in addition, the proper use of illustrative material from texts, periodicals, press or other media. **Hand in** at Session Seven,

Class attendance will be used in the moderation of the final grades. Being absent from class without a valid reason will result in a diminution of this grade on a pro-rata basis. Equally, excellent attendance will be reflected in an uplift of the grade where the examination result is borderline.

See the Guidelines issued by Boston University on Grading Policy and on Plagiarism.

Session One

Introduction & Background

Introduction to the Course
The Early History of the English Legal System
The Birth of the Common Law

Reading:

(1) The English Legal System Slapper & Kelly Ch 1

(2) Constitutional & Administrative Law Alder Ch 3

Session Two

The Development of the Common Law

Historical Development of the Courts
Judicial Committee of the House of Lords; the future – a
Supreme Court for the UK

Reading:

(1) English Legal System Slapper & Kelly Ch. 3

**(2) JUSTICE Working Party “The judicial functions of the House of Lords”
at <http://www.justice.org.uk/images/pdfs/hol.pdf>**

Session Three

The Judiciary/The Courts

The Judiciary (Preliminary Overview)
A History of the Judiciary
Modern Developments
The Constitutional Role of the Judiciary
The US Supreme Court Justice (a comparison)
The Courts (contemporary court system)

- (1) **Constitutional & Administrative Law Alder Chs 5.5, 8**
- (2) **English Legal System Slapper & Kelly Ch 6**

Session Four

Field Trip: Central Criminal Courts
Meet at St Pauls Tube Station exit (ground level) time t.b.a.

The Courts contd. (Subtopic: The Executive)

Constitutional change in the UK:
The role of the Lord Chancellor
Development of the Common Law and legal system in the
US and the influence of the English System

Reading

- (1) **Common Law Systems**
- (2) **American Lawyers and the Common Law**
- (3) **Constitutional & Administrative Law John Alder Chs 5, 8**

Session Five

Field Trip (Topic: Courts, Legal Profession & Judiciary)

Field Trip to Royal Courts of Justice. Meet field trip leader Andy Charlton at Temple Tube Station 9.30 am

Reading: (1) Goodman, A “RCJ Walking Guide” - Course Pack reading

Session Six

The Legislature
Supremacy of Parliament
The Legal Profession
The English Legal Profession
A history of the emergence of separate professions
Solicitors
Barristers
Notaries Public
ILEX and Licensed Conveyancers
Comparison with US

Reading:

(1) Constitutional & Administrative Law Alder Chs 11, 12 & 13

(2) English Legal System Slapper & Kelly Chs 12 & 13

Session Seven

Field Trip (Magistrates Courts; Legal Profession In Action)

Meet in class.

The Courts and the Legal System In Action
Criminal Court Structure
Civil Court Structure

Reading:

(1) English Legal System Slapper & Kelly Ch. 4

Session Eight

Field Trip: House of Lords Appellate Committee (meet in class 9am)

Session Nine

Judicial Independence

Course Review

(1) ***“Judicial Independence – It’s History in England & Wales” - .pdf***

(2) ***English Legal System Slapper & Kelly Ch. 1.4.2, 6***

Final Exam

Currently scheduled for . See BU website for updates on time and location. (Check the day before the exam in case of any last minute change).

Please note that faculty do not have the authority to change exam times for students – if a student wants to move the timing of an exam this needs the approval of the Directors’ Office and there have to be valid reasons for the request.

Grading Criteria:-

A This exceptional grade is assigned only to work that has persistently outstanding quality in both substance and presentation. The student must demonstrate a sustained capacity for independent thought and extensive study, producing rigorous and convincing analyses in well-ordered prose.

A- Awarded to work that is clearly focused and analytical, and based on wide reading. The student must cover all the principal points of a question and systematically develop a persuasive overall thesis, allowing for one or two venial omissions or inapt expressions.

B+, B, B- This range of grades indicates that the student has shown some evidence of original thought and intellectual initiative. The student has cited

sources beyond the class materials, and shown a degree of originality in perception and/or approach to the subject. The work will show thoughtful management of material, and a good grasp of the issues. The differences between a B+, a straight B and a B- may reflect poor presentation of the material, or mistakes in punctuation, spelling and grammar.

C+, C, C- Work in this grade range is satisfactory, but uninspiring. If the work is simply a recitation of the class materials or discussions, and shows no sign of genuine intellectual engagement with the issues, it cannot deserve a higher grade. Should an essay fail to provide a clear answer to the question as set, or argue a position coherently, the grade will fall within this range. Quality of presentation can lift such work into the upper levels of this grade range. Work of this quality which is poorly presented, and riddled with errors in grammar, spelling and punctuation, will fall into the lower end of the range. To earn a C grade, the work must demonstrate that the student is familiar with the primary course material, be written well enough to be readily understood, be relevant to the assignment, and, of course, be the student's own work except where properly cited.

D A marginal pass can be given where some but not all the elements of the course have been completed satisfactorily.

F The failing grade indicates the work is seriously flawed in one or more ways:

- *Obvious lack of familiarity with the material
- *So poorly written as to defy understanding
- *So brief and insubstantial that it fails to properly address the subject
- *Material presented is not relevant to the assignment
- *Demonstrates evidence of plagiarism

Students should attend each class and be punctual. A register will be taken at the start of each session (see Grading information above). Notice of non-attendance for legitimate reasons must be given in advance; such notice is to be given to a senior member of staff in Academic Affairs Office to be passed to Denis Carey or by emailing dcarey@nybar.co.uk. It is not acceptable to leave a message via a fellow classmate. Lost time may be required to be made up. Absent students should arrange with a classmate to share notes.

Failure to hand in the written paper on time may result in a lower grade.

Denis Carey will be available after each class for questions. You may email him at any time. This course is intended to be interesting and challenging and it is hoped all students will enjoy it.