

You'll be the judge of that!

A guide to legal English

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The author

© Uitgeverij Academia Press
Ampla House
Coupure Rechts 88
9000 Ghent
Belgium

www.academiapress.be

Academia Press is a subsidiary of Lannoo Publishers.

Kristin Van den Eede
You'll be the judge of that!
A guide to legal English
Gent, Academia Press, 2012, VI + 205 p.

ISBN 978 90 209 8932 8
D/2026/152/45
NUR1 632
U 1852

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Intended audience

This book is tailored to the needs of Dutch-speaking law students who want to develop the specialist language knowledge they will need in their later career.

The elaborate material in the book is supplemented with a comprehensive answer key, which makes it suitable for self study at different language levels. In addition, students are welcome to consult several short movies, listening fragments and role-plays, which are all available on www.webstudenten.be.

Objectives

This book aims to improve students' reading, writing, speaking and listening skills in a legal context.

On the one hand, it features a wide range of communicative activities, training students to actively use formal and specialist vocabulary by means of elaborate vocabulary lists and exercises. Through these exercises, students learn to express themselves fluently and correctly in different situations they will come across in their later career.

On the other hand, this book also helps students develop a clear writing style. It highlights the benefits of Plain English, as well as examining some common Latin terminology and euphemisms used in legal contexts. It aims to enhance grammatical accuracy by focusing on grammatical pitfalls that are of particular importance to law students and speakers of Dutch in general. In order to facilitate self study, an overview is given of some legal dictionaries and other useful resources for legal professionals.

Finally, students also receive in-depth training on how to read and independently process English texts and decipher legalese. There are several subject-oriented texts available from different sources.

Structure

The structure of this book has been determined in close consultation with research assistants. It contains a general introduction to legal English and is divided into six main themes (The Legal Profession, Criminal Law, Contract Law, Family Law, Employment Law, and European Law). Every unit includes a reading or writing assignment, pronunciation and vocabulary exercises, several provocative discussion topics, quizzes and vocabulary lists.

Acknowledgements

I would like to thank Katelyne Verstraete, whose input was invaluable in tailoring this book to the specific needs and background knowledge of law students. A special word of thanks goes out to Kristof Vande Velde, for his enthusiasm and creativity when brainstorming with me on some catchy titles.

Unit 1

An introduction to legal English

Discourage litigation. Persuade your neighbors to compromise whenever you can. As a peacemaker the lawyer has superior opportunity of being a good man. There will still be business enough.

Abraham Lincoln (16th President of the United States, 1809-1865)

Exercise 1:

What basic legal terminology do you recognize in these anagrams?

1. court pees : _____
i.e. to officially accuse in a court of law
2. routine cops : _____
as in: The defence's plea of guilty to manslaughter was not accepted by the ~
3. hard cages : _____
as in: guilty ~
4. flip faint : _____
i.e. the party that goes to court in a civil case
5. count isaac : _____
as in: you can't make any wild ~s like that!
6. adam draws age: _____
i.e. to give financial compensation
7. fend dante : _____
i.e. the party that is accused of something
8. living crow : _____
i.e. any wrongdoing for which an action for damages may be brought
9. confine farm lice : _____
as in: it is a ~ to make counterfeit bank notes
10. quail catt : _____
i.e. the opposite of a conviction
11. use : _____
i.e. to take legal action in a civil court
12. tibia lily: _____
i.e. legal responsibility

Exercise 2:

**A. The study of law distinguishes between different subject matters.
Which ones?**

C_____ LAW

the law which relates to personal matters

C_____ LAW

The law which deals with crime


B. You will see an extract from a famous case in which this distinction is important. Answer these questions.

 1. What do you know about the defendant?

 2. What do you know about the case? Come up with as much information as possible (e.g. dates, names, etc.)

 3. Does the verdict acquit or convict the defendant?

 4. What was he accused of?

 5. Is this the verdict of a civil or a criminal case?



C. Read the text below and answer the questions (“What’s the difference between a civil judgment and a criminal conviction?”, n.d.).

What’s the difference between a civil and a criminal conviction?

O.J. Simpson is NOT guilty as judged by criminal court. Yet a civil court held him accountable. How can a person acquitted of murder in a criminal trial be held liable for a victim’s wrongful death in a civil trial?

The first step to understanding this seeming contradiction is to know that a criminal prosecution involves different laws, a different court system, and different burdens of proof. Specifically, the definition of first degree murder in the context of the O.J. case requires that the act be done deliberately and with a great deal of malice directed toward the victim. And to convict in the criminal court, the case against the defendant must be proven beyond a reasonable doubt.

In a civil case for wrongful death, on the other hand, you have to show only that the defendant was legally responsible for the death. But, to get punitive damages, as the plaintiffs did in the O.J. case, you have to show that the defendant acted recklessly. The burden of proof in a civil case is preponderance of the evidence -- a much lesser burden than is required in a criminal case.

So, while a criminal jury might reasonably fail to find guilt beyond a reasonable doubt and acquit the accused, a civil jury might also reasonably find by a preponderance of the evidence that he or she acted recklessly and should be held civilly accountable for the death.

Is the former football hero Orenthal James Simpson a murderer? A civil jury found it more likely than not that he caused the death of his wife and her friend. A criminal jury was unable to find beyond a reasonable doubt that O.J. committed first degree murder. Seen this way, there is no contradiction.

1. A civil case was also initiated. Explain on which grounds this case was based.

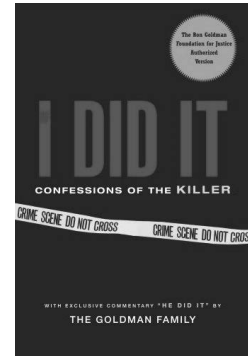
2. What are the different burdens of proof called in civil and criminal law?

3. What were the plaintiffs’ intentions with the civil case?

4. What was the outcome of each trial?

5. Do the verdicts contradict each other?

In November, 2006, OJ published the book **If I Did It**, in which he gives a hypothetical description of the two murders. Although its release was quickly cancelled, a great number of copies were still printed. Later, the rights to the book were awarded to the Goldman family as part of their settlement. The title of the book was changed to **If I Did It: Confessions of the Killer**.



Exercise 3: Civil procedure in the United States

A. Fill in the gaps.

testimony	verdict	overrule	voir dire	move
strike	settled	summons	hearsay	cross-examine
depositions	stay	judgment	receipt	closing arguments
counterclaim				

1. To begin with, the plaintiff (called the claimant in the UK) files a _____ by the use of a writ. Once a claim has been issued, the summons will be served on the defendant.
2. Next, the defendant will have to file some responsive pleading to the claimant's complaint. S/he can either admit the claim, defend it, confirm _____ of the claim, or file a _____ if s/he feels that the plaintiff has caused damage to him/her.
3. The parties may then engage in a period of discovery. This may involve producing documents and other evidence or taking _____ of the parties and the witnesses. A party may _____ to exclude certain evidence at this stage.
4. After this, the parties will appear periodically before the judge to report on the status of the case. Eventually, the case will be ready for trial, unless a _____ in proceedings (i.e. a temporary halt) is agreed or the case is _____ privately between the parties.
5. Subsequently, trial will commence. The trial may be called before a single judge or before a jury. In the latter case, each side will participate in the process of selecting jurors (i.e. _____). In this process, potential ju-

- rors are questioned in open court in order to find out if they are in any way biased towards either of the parties. If that turns out to be the case, one of the lawyers may _____ the juror for cause and remove him/her. In addition, each lawyer can make a limited number of peremptory challenges, by which a juror can be excluded without any explicit cause.
6. The trial first begins with the opening statements. The plaintiff will then present its testimony and other evidence in support of its case by calling its witnesses and conducting direct examination. The defence may _____ the plaintiff's witnesses. When the plaintiff has finished presenting its case, the defence will present its own case and call its own witnesses. In turn, the defence is allowed to cross-examine these witnesses in an attempt to undermine their _____. In general, witnesses are not allowed to state opinions unless they are experts. Furthermore, there is a prohibition on leading questions and _____. If these rules are violated, lawyers may object. The judge may then decide to sustain or _____ the objection.
 7. Finally, both sides will make _____ and the jury will receive jury instructions to help reach its _____. The judge will usually enter a _____ based on the jury's verdict.
 8. The losing side may decide to appeal to a higher court.

B. Underline all sequencers in this text (i.e. words that structure the flow of information). What other sequencers can you use for the first/last step in a list, instead of “to begin with” and “finally”, used here?

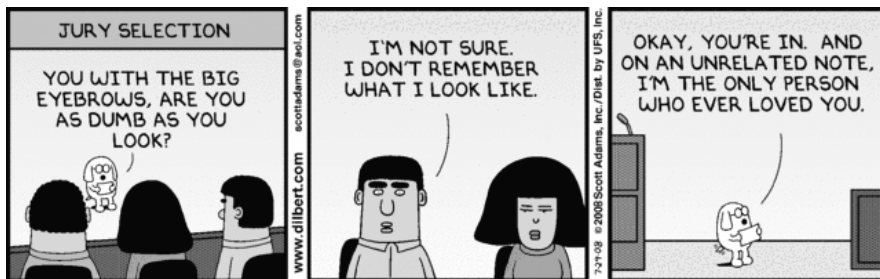
Exercise 4: Criminal proceedings in the United States

A. Look at the different stages in a criminal case below. Put them in the correct order.

1. prosecutor files charges (alternatively, s/he sends the case back to the police for a caution or takes no further action at all)
2. verdict + sentence
3. closing arguments
4. preliminary/preparatory hearing
5. serve a summons or issue an arrest warrant

6. lawyers call witnesses
7. voir dire + jury is sworn in
8. prosecutor is informed
9. probable cause
10. trial begins

B. Explain this procedure to a client. Work in pairs and explain five steps each, using sequencers.



www.dilbert.com

Exercise 5:

The following written documents are quite confusing. Match them with their explanation.

- | | |
|---------------|---|
| 1. indictment | a) an order of the court for a witness to appear at a particular time and place to testify and/or produce documents |
| 2. subpoena | b) a written order of a judge requiring specific action by the person or entity to whom it is directed |
| 3. petition | c) a legal document issued by the court that serves as official notice that a person will be involved in a lawsuit |
| 4. summons | d) a formal statement of accusing someone, includes the specific charges |
| 5. writ | e) a formal written request by someone for an order of the court |

Exercise 6:

A. What do you expect from an English descriptive legal dictionary? What should be included? Come up with at least four elements.

- 1.
- 2.
- 3.
- 4.

B. Have a look at the (online) dictionary entries. Which one do you prefer and why? Discuss in small groups which dictionary meets your requirements.

Online Dictionary N° 1: <http://dictionary.law.com>

LAW.COM Dictionary [Place this dictionary on your site](#)

3 Easy Ways to use the Dictionary

Enter a Legal Term:

For the definition of a legal term, enter a word or phrase below.

☒ all words
 ☐ any words
 ☐ phrase

Look It Up!

or

Search the Definitions:

To find all definitions that include a specific term, enter a word or phrase below.

☒ all words
 ☐ any words
 ☐ phrase

Look It Up!

or

Choose a Letter:

Find a definition by clicking on the first letter of a word or phrase.

A B C D E F G H I
J K L M N O P Q R
S T U V W X Y Z

BILL

n. 1) what is commonly called a “check” by which the signer requires the bank to pay a third party a sum of money. This is a holdover from the days when a person would draw up a “bill of exchange.” 2) a statement of what is owed. 3) any paper money. 4) a legislative proposal for enactment of a law. It is called a bill until it is passed and signed, at which time it is a law (statute) and is no longer referred to as a bill. 5) an old-fashioned term for various filed documents in lawsuits or criminal prosecutions, which is falling into disuse.

ACT

1) n. in general, any action by a person. 2) n. a statutory plan passed by Congress or any legislature which is a “bill” until enacted and becomes law. 3) v. for a court to make a decision and rule on a motion or petition, as in “the court will act on your motion for a new trial.”

STATUTE

n. a federal or state written law enacted by the Congress or state legislature, respectively. Local statutes or laws are usually called “ordinances.” Regulations, rulings, opinions, executive orders and proclamations are not statutes.

Online Dictionary N° 2: <http://dictionary.lp.findlaw.com>

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Search the Legal Dictionary

bill

1: a draft of a law presented to a legislature for enactment

also

: the law itself

Example: the GI **bill**

2: the pleading used to begin a suit in equity that sets forth the basis for one's claim against another
(called also *bill in equity*)

3 a: a form or device of procedure used in civil actions

b: a device or instrument used in criminal procedure

4: an itemized account of goods sold, services performed, or work done

5: a written instrument setting out the terms of a transaction involving goods:
as

a: "bill of lading"

b: "bill of sale"

6: a piece of paper money

7: a written instrument providing proof of an obligation to pay money

act
1 a: something done by a person in accordance with his or her free will Example: a tortious act (see also <u>actus reus</u>) b: the failure to do something that one has a legal duty to do (called also <u>negative act</u>) 2 <i>often cap</i> : the formal product of a legislative body: the formally declared will of a legislature the final requirement of which is usu. the signature of the proper executive officer: "statute" Example: an act of Congress b: a decision or determination of a sovereign, a legislative council, or a court of justice (compare <u>bill § 1</u>) 3 <i>often cap</i> : a formal record of something done or transacted Example: given as my free act and deed Example: matters of procedure are provided for in that <i>Act</i> -- <i>Federal Rules of Civil Procedure</i> Rule 81(a)(6)

statute
['sta-çhüt] Latin <i>statutum</i> law, regulation, from neuter of <i>statutus</i>, past participle of <i>statuere</i> to set up, station, from <i>status</i> position, state 1: a law enacted by the legislative branch of a government (see also <u>code</u> <u>statutory law</u>) 2: an act of a corporation or its founder intended as a permanent rule 3: an international instrument setting up an agency and regulating its scope or authority Example: the statute of the International Court of Justice

Online Dictionary N° 3: <http://dictionary.reference.com>

entries found for **bill**

bill (P) **Pronunciation Key** (bĭl)

n.

1. An itemized list or statement of fees or charges.
2. A statement or list of particulars, such as a theater program or menu.
3. The entertainment offered by a theater.
4. A public notice, such as an advertising poster.
5.
 - a. A piece of legal paper money: *a ten-dollar bill*.
 - b. Slang. One hundred dollars.
6.
 - a. A bill of exchange.
 - b. Obsolete. A promissory note.
7.
 - a. A draft of a proposed law presented for approval to a legislative body.
 - b. The law enacted from such a draft: *a bottle bill in effect in three states; the GI Bill*.
8. Law. A document presented to a court and containing a formal statement of a case, complaint, or petition.

entries found for **act**

act (P) **Pronunciation Key** (ăkt)

n.

1. The process of doing or performing something: *the act of thinking*.
2. Something done or performed; a deed: *a charitable act*.
3. A product, such as a statute, decree, or enactment, resulting from a decision by a legislative or judicial body: *an act of Congress*.
4. A formal written record of proceedings or transactions.
5. One of the major divisions of a play or opera.

6.
 - a. A performance or entertainment usually forming part of a longer presentation: *a juggling act; a magic act.*
 - b. The actor or actors presenting such a performance: *joined the act in Phoenix.*
7. A manifestation of intentional or unintentional insincerity; a pose: *put on an act.*

entries found for **statute**

stat-ute  (P) **Pronunciation Key** (stăch'ōōt)

n.

1. A law enacted by a legislature.
2. A decree or edict, as of a ruler.
3. An established law or rule, as of a corporation.

C. Here are a number of other excellent resources:

COLLIN, P. (ed.) (2000) Dictionary of Law. Teddington: Peter Collin Publishing Ltd.

Delmar Cengage Learning

GARNER, B. (ed.) (2009) Black's Law Dictionary. St. Paul: West Publishing Company

Juridisch Lexicon Kluwer (online: www.wkk1.nl/lexicon/)

Lexicon. Kluwer.

LYNTON, J.S. (1994) Ballentine's Legal Dictionary and Thesaurus. New York:

MARTIN, E. (1983) Oxford Dictionary of Law. Oxford: Oxford University Press.
(or later editions)

VAN DEN END, A. (2010) Juridisch-Economisch Lexicon. The Legal and Economic

Exercise 7:

A. For pronunciation, spelling and general word use, you can also use general dictionaries.

Use the following words in a sentence that shows you understand them.

Look them up in one of these online dictionaries:

<http://www.merriam-webster.com/> (US)

<http://dictionary.cambridge.org/> (UK)

1. equity:

2. inter alia:

3. treaty:

4. to indict:

B. Do you know the correct pronunciation of these words ?

1. procedural

7. tort

2. malice

8. indict

3. preponderance

9. tribunal

4. receipt

10. hypothetical

5. appellant

11. negligence

6. subsequently

12. subpoena

C. These words all use American spelling. Write the British equivalent. Do you know any similar words?

1. harbor: -----

2. toward: -----

3. theater: -----

4. cooperation: _____
5. fulfill: _____
6. program: _____
7. skeptical: _____
8. defense: _____

Exercise 8:

A. Match the words in the box with one of the definitions below.

<i>reasonably prudent person</i>	<i>juror</i>	<i>prosecution</i>
<i>expert witness</i>	<i>respondent</i>	<i>plaintiff</i>

1. person who initiates a civil lawsuit in first instance (↔ defendant)
2. person who has specialised knowledge and is called to testify in court
3. person who is the defendant in an appellate case (↔ appellant), both in criminal and civil law
4. party that initiates a criminal case in first instance (↔ defendant)
5. hypothetical person whose actions are the guide in determining whether an individual's actions were reasonable
6. person who is a member of the jury (AKA jury member)

B. Now write your own definitions for the underlined words in the following sentences. First have a look at the information in the box.

a good definition contains the following elements:

1. the class to which the term belongs.
2. the characteristics that distinguish it from the rest of its class
(= a relative clause)

For example:

a tort is a civil wrong (1)

that does not include breach of contract (2)