



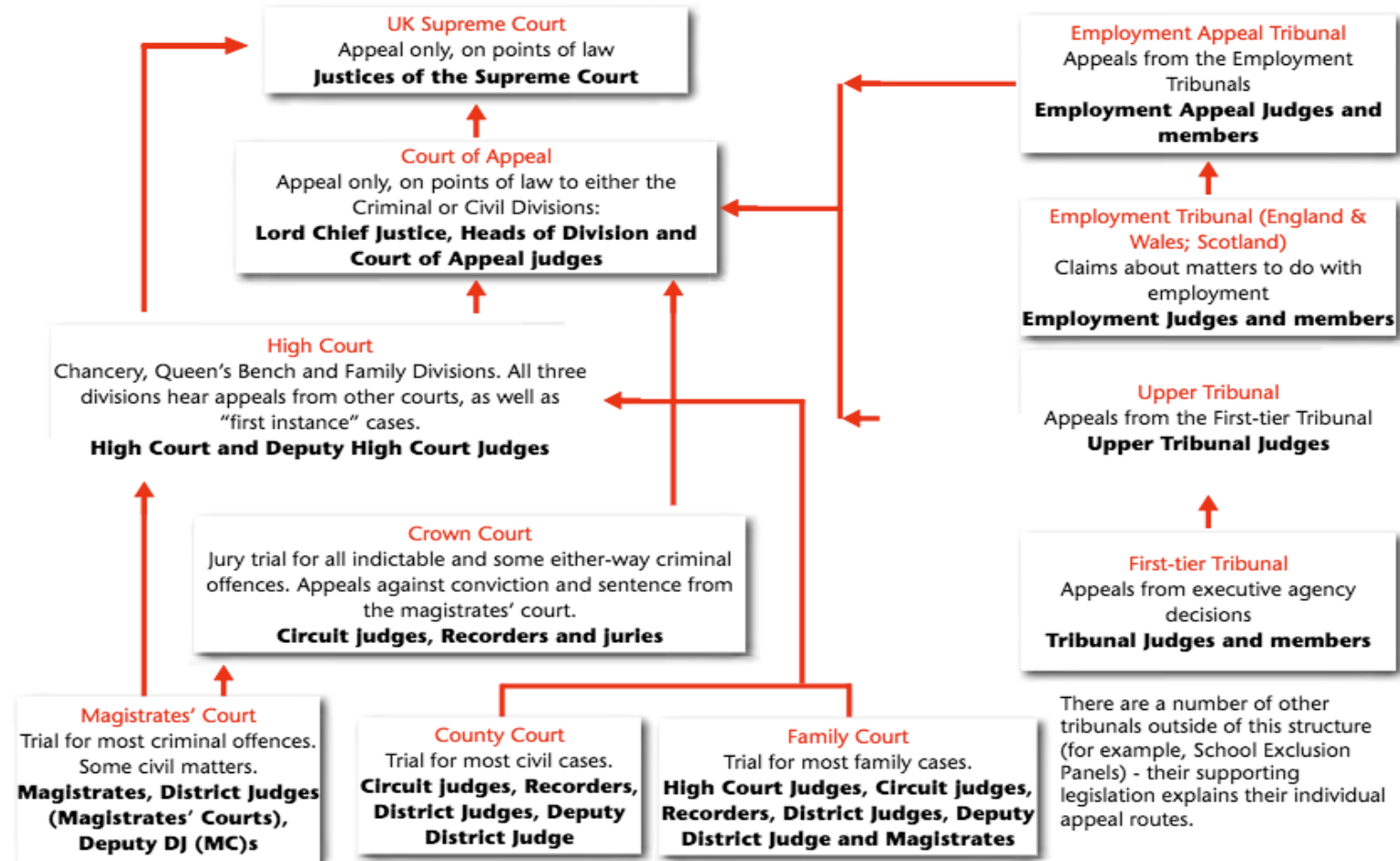
# THE ENGLISH LEGAL SYSTEM

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# THE ENGLISH COURT SYSTEM

## The Structure of the Courts



# BACKGROUND

- Current structure dates from 1973
- Courts are “two-tiered”—*civil* and *criminal*
- Courts hear either *original* or *appellate* cases—or both
- Reformed in 1971, 1981, and 2005
- Structure now includes a ***Supreme Court***, superseding the House of Lords as the highest court in the land

# TYPES OF CASES

In general, two types of cases come before English courts:

1. “cases at first instance” (where original trial occurs)
2. “cases on appeal” (where original trial is examined)

# HIERARCHY OF COURTS (STARTING FROM THE BOTTOM)



# MAGISTRATES' COURTS

- Deal only with cases at first instance (“original jurisdiction”)
- Hear both criminal and civil cases
- Civil cases? Collections, family law
- Criminal cases? Petty crimes, for which the court can impose fines and short imprisonments
- Courts are spread out all over the country
- Consist of a panel of three unpaid lay magistrates, assisted by the clerk of court (a lawyer)

# COUNTY COURTS

- These courts have only local jurisdiction (each county consists of districts which are grouped into circuits)
- Only hear cases at first instance
- Only hear civil matters, and only up to a certain monetary amount
- Venue is proper where defendant is located or where the alleged action occurred
- Presided over by a circuit judge (always a lawyer), who may sit in several county courts

# CROWN COURT

- Just one court, which can sit anywhere in the country
- Known as “Old Bailey” when located in London
- Hears only serious criminal matters
- Hears either 1) cases in first instance, or 2) appeals from magistrates’ courts



# HIGH COURT OF JUSTICE

- May be located anywhere in the country
- Hears both civil and criminal matters
- Has both original and appellate jurisdiction
- Staffed with “puisne judges”
- *A Puisne judge refers to a junior judge. Puisne judge is a judge without a distinction or title. This was the title formerly used in English common law courts for a judge other than a chief judge. Today, puisne judge refers to any judge of the English High court, apart from the chief justice.*
- Consists of three divisions: 1) **Queen’s Bench**, 2) **Chancery**, and 3) **Family**

# I) QUEEN'S BENCH

- Largest division
- Original jurisdiction only for civil cases
- Hears criminal appeals from magistrates' courts and Crown Court

## 2) CHANCERY DIVISION

- Primarily a trial court
- Hears only civil cases, including cases of property, mortgages, trusts, probate, bankruptcy, landlord/tenant, and patents
- Hears bankruptcy appeals

## 3) FAMILY DIVISION

- Hears cases concerning domestic relations
- Has both original and appellate jurisdiction
- Appeals come from magistrates' courts

# COURT OF APPEALS

- Based in London
- Hears both civil and criminal matters—**but only on appeal**
- Decisions are binding on all lower courts
- Consists of two divisions: 1) Civil and 2) Criminal

# I) CIVIL DIVISION

- “Discretionary” court
- May allow or dismiss appeals—or only hear part of them

## 2) CRIMINAL DIVISION

- Also “discretionary”
- May allow appeal and may “quash” the conviction
- May order a whole new trial if new evidence is presented

# THE SUPREME COURT AND THE HOUSE OF LORDS

- Until 2009, the House of Lords was the highest court
- Its “Appellate Committee” functioned as the highest court
- Members were known as “Law Lords” who rarely participated in political debates/votes
- Appeals were heard by 5-9 of the “Law Lords”
- Each “Law Lord” prepared a written opinion, but the case was decided by the majority



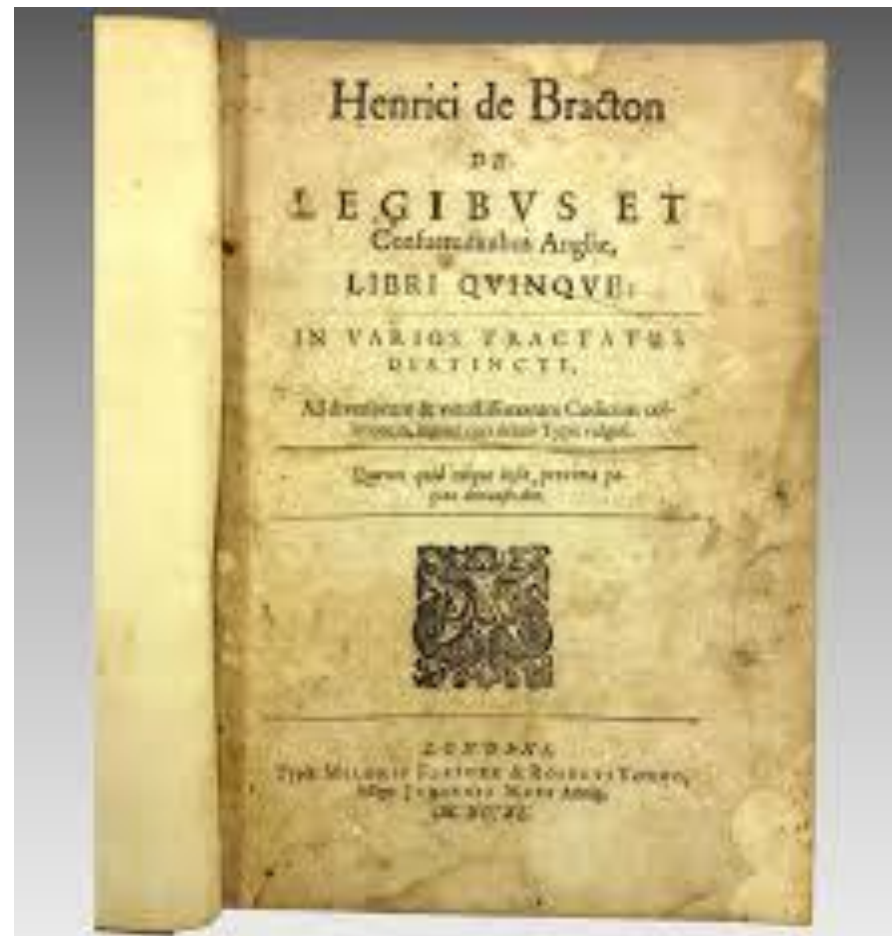
# (CONTINUED)

- After 2009, the “Law Lords” were transferred to the new Supreme Court
- This new court was “discretionary”
- The court hears civil, criminal, and devolution cases
- “Devolution” is the statutory granting of powers from the central government of a sovereign state to government at a subnational level, such as a regional, local, or state level.
- “Devolution” is a form of decentralization, where devolved territories have power to make legislation relevant to the area
- Supreme Court decisions are binding on all lower courts

# PRIVY COUNCIL

- Functions as both an advisory body to the Queen, and as an appellate court for ecclesiastic matters
- Remains the highest court of appeals for British colonies

# HENRY DE BRACTON



# SIR EDWARD COKE



# SIR WILLIAM BLACKSTONE



# DONOGHUE V. STEVENSON (1928)

The events of the case took place in Paisley, Scotland in 1928. While sitting in a cafe, Ms May Donoghue was given a bottle of ginger beer purchased for her by a friend. The bottle was later discovered to contain a decomposing snail. Since the bottle was not made of clear glass, Donoghue consumed most of its contents before she became aware of the snail. She later fell ill and a physician diagnosed her with gastroenteritis. Donoghue subsequently took legal action against David Stevenson, the manufacturer of the ginger beer. She lodged a writ in the Court of Sessions, Scotland's highest civil court, seeking £500 damages.

Donoghue could not sue Stevenson for breach of contract because she had not purchased the drink herself. Instead, Donoghue's lawyers claimed that Stevenson had breached a duty of care to his consumers and caused injury through negligence.

If you were the judge, how would you decide this case?



