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The Role of Lay People

Prior to this Lecture you should have read and Précised Chapters 17 and 18 of ‘The English Legal System’ (5th edition) by J Martin.

Do not chat in this Lecture

Switch OFF your mobile.
Take Notes
Raise your hand if you wish to ask a question
Do not eat any food in this classroom or leave any litter

Who are Lay People?

✓ People without legal training
✓ Jurors, Magistrates,
✓ Lay members of Tribunals
Using lay people helps reduce technical language and makes the law accessible to ordinary people
Also means that decisions are made by ordinary people from a variety of backgrounds
Helps promote the idea of a society free from state control

Magistrates

Around 29,000 of them
Deal with small offences – up to 6 months imprisonment

In cities they may use a Stipendiary Magistrate (District Judge) – who sits full-time
Most are lay magistrates appointed by Lord Chancellor on advice of Advisory Committees (advertised)
Must be over 18 (27 in practice), of good character and capable
Aim to achieve balance of age, race and gender

History of the Magistracy

Can somebody tell me about the history of the magistracy?

Produced by Dr Peter Jepson
Magistrates …

In 1998 the Lord Chancellor set out six key qualities that candidates should have:

- Good character
- Understanding and communication
- Social awareness
- Maturity and sound temperament
- Sound judgement
- Commitment and reliability

In 2003 the age criteria was changed to 18

Why are these so important?

Which of the below have restrictions on appointment as a magistrate?

- “Known criminals need not apply” - True/False?
- “People who owe money” - True/False?
- “People declared bankrupt” - True/False?
- “Police Officers/Traffic Wardens” - True/False?
- “Deaf people” - True/False?
- “Teachers” - True/False?

Magistrates role …

They sit at least 26 half-days each year

They deal with Criminal Trials

But do have a Civil Jurisdiction

Magistrates …

M’s Rely on legal advice (technical and on sentencing) from the Court Clerk (who could be lay)

Clerk to the Justices must be a qualified Barrister or Solicitor

Clerk MUST NOT be involved in deciding the guilt or innocence of the accused

That is the role of the Magistrates – they alone determine guilt

Magistrates …

• 1,500 appointed each year by the Lord Chancellor
• He relies on recommendations of the Local Advisory Committee.
• Political balance is sought.
• Lord Chancellor also trying to get an occupations balance.
• Two-stage interview process.

Composition of Magistrates

Unrepresentative of the community as a whole

J Martin claims the traditional image is that M’s are … “Middle-aged - middle-classed + middle-minded.”

A report in 2002 “The Judiciary in the Magistrates Court” found that lay magistrates were drawn overwhelmingly from Professional and Managerial ranks and 40% were retired from full-time employment.

49% of M’s are women - 6% ethnic minority (7.9% population)
Criticisms of Magistrates

Inconsistent decisions between benches
   *This can be a benefit because they can penalise certain crimes*
More likely than juries to convict
   *Possible that those not guilty will choose Jury trial*

Working in Law Firms ...

(1) Provide a list of Magistrates duties for presentation to class.
(2) Undertake the activity (p270) and answer the questions on page 271 of the ELS textbook.

Training of Magistrates ...

See page 272/273 of J Martin - 5th edition

Write down a list of the various steps related to the training of Magistrates ...
When do Magistrates retire?
Which act enables the Lord Chancellor to remove a Lay Magistrate and in what circumstances may this occur?

In Law firms ...

Establish a list of the advantages and disadvantages of law magistrates - Discuss them in class.
Produce essay plans for Examination Questions on page 278 of ‘ELS’.

Juries ...

In which courts can juries be found?
What did Bushell’s Case of 1670 establish?

20th Century Developments...

Prior to 1972 there was a property and age qualification (21 and 60 and a home owner or ratepayer).
Q – What impact did this have on women?
   In 1967 unanimous verdicts were abolished – police welcomed this saying unanimity facilitated intimidation of jurors
The Criminal Procedure and Investigations Act 1996 added to the trend to move cases from Crown to Magistrates Courts by reducing the opportunity for triable-either-way opportunities.

What is a triable-either-way case? Give an example.

In 1999/2000 the then Home Secretary, attempted to limit the number of triable either way offences. His defeated bill would have allowed the Magistrates (and not as present the accused) to decide if a case goes to the Crown Court.

Jurors – Juries Act 1974

- Function is to decide issues of fact
- Used in Crown Court Criminal Trials
- Judge will explain the law – Jury determines the verdict based upon the facts in relation to the law
- At first must be unanimous, after two hours majority verdict (10 or 11 from 12)
- Jurors excluded while points of law considered. Can ask written questions

Jury selection

As per the Juries Act 1974 (as amended)
- Selected from electoral roll
- Must be resident in the UK
- Aged 18 to 70

Produce a list of people who are excluded, disqualified, or can be excused from Jury Service.

It is compulsory

- Right to time of work
- Can claim loss of earnings and travel expenses
- Shown videos about serving as a Juror

I swear by Almighty God that I will faithfully try the defendant and give a true verdict according to the evidence.

Prosecution may ask a Juror to leave the Jury box before sworn in (rare)

Random Selection …

If national security is involved the Attorney General can authorise jury vetting (What is it?).

It can be argued that the combination of ineligibility, disqualification and excuse, effectively excludes large sections of the community

See ‘A Racist Jury’ by Dr Peter Jepson
Published in the Criminal Lawyer (June 2000)
www.peterjepson.com/a_racist_jury.htm
Juries sit in less than 3% of all criminal trials.

**Civil Juries …**

In *Civil Cases* there is a right to a jury in...
- Defamation Cases
- Malicious prosecution
- False imprisonment or fraud

If the case involves a lot of documentary evidence, or scientific or accounting material, a Jury can be refused (example McLibel trial)

What is the relevance of *Ward v James [1966]*?

**Arguments for and against Juries**

- Triable-either-way... Runciman Commission proposed if P & D cannot agree then the Magistrates should decide if a jury is used
- Jurors said to be well placed to establish if D is telling the truth
- Cornerstone of a democratic society
- Expensive

X Juries tend to acquit more than magistrates

Students to explain why there are more acquittals?

**Lay people in Tribunals …**

Most administrative tribunals have a legally qualified chair

However, they also generally have lay advisors

Example... Employment Tribunals have a legally qualified Chair, and TUC and a CBI representative, thereby reflecting a balance of interests

**Students are to break into Law Firms to as to present to class the below topics …**

- Jury Qualifications (18.3)
- Selecting a Jury (18.4)
- The Juries Role in Criminal Cases (18.5)
- Advantages and Disadvantages of Jury Trial (18.6 and 18.7)
- Juries in Civil Cases (18.8)
- Alternatives to jury trial 18.9

**Plan answers …**

In silence plan answers to the Examination Questions on page 300 of *The English Legal System* by J Martin (5th edition).