CONTENTS

	Preface to first edition	X11
	Preface to fifth edition	xii
	Statutes	xiii
	Cases	xiv
	Command papers, Hansard, House of	
	Commons papers and other official	
	publications	xxvi
	Books, pamphlets, memoranda and	
	articles	xxvii
	Acknowledgments	XXX
CHAPTER I	THE ORGANIZATION OF TRIAL COURTS	
	AND TRIBUNALS	I
	I The work handled by the courts	2
	(a) The civil courts	2
	(b) The criminal courts	II
	2 Problems of trial courts' organization	22
	(a) The relationship between higher	
	and lower trial courts - criminal	
	courts	22
	(b) The relationship between higher	
	and lower trial courts - civil courts	25
	3 Should there be a unified family court?	34
	4 The proper role of courts and tribunals	41
TIADEED O	Dre Trate Drogerrange	
HAPTER 2	PRE-TRIAL CIVIL PROCEEDINGS	51
	To what extent can one find out what happened before the issue of	
	proceedings?	51
	(a) Is there any property in a witness? (b) Can the believe be required to	51
	(b) Can the police be required to	

	produce their report of a traffic	
	accident? (a) Can a victim of an accident act the	54
	(c) Can a victim of an accident get the	
	factory inspector's report? (d) Can the injured become inchest the	55
	(d) Can the injured person inspect the	
	premises or machinery where the	- 6
	accident occurred?	50
	2 What causes cases to settle?	58
	3 Initiation of proceedings	62
	(a) Should solicitors have a monopoly	
	of the right to commence legal	
	proceedings on behalf of others?	62
	(b) Should proceedings be started in the	
	High Court or in a county court?	64
	(c) What kind of proceedings should be	
	started?	66
	(d) Venue	67
	(e) Issue and service of proceedings	68
	(f) Representative and class actions	68
	4 Interlocutory proceedings	7 I
	(a) Acknowledgement of service	71
	(b) Summary judgment	7 I
	(c) Pleadings	73
	(d) Payment into court	76
	(e) Discovery and 'cards on the table'	80
	(f) The Civil Justice Review proposals	100
	(g) The pre-trial hearing	104
	(h) Delays	109
	(i) Conclusion	122
CHAPTER 3	PRE-TRIAL CRIMINAL PROCEEDINGS	128
	I Questioning of suspects by the police	129
	(a) The importance of questioning	129
	(b) Regulation of the processes of	
	questioning	130
	(c) Whom can the police question?	133
	(d) Is the citizen obliged to answer	
•	police questions?	133
	(e) The legal consequences of silence in	- 33
	the face of police questioning	139
		- 33

	(g) The duties of defence counsel	237
	5 Bail	239
	(a) Bail from the police station	239
	(b) Bail decisions by courts	241
	(c) The period of remand in custody	
	and fresh applications for bail	246
	(d) Appeals against a refusal of bail	248
	(e) Causes for concern	249
	6 Information supplied to the opponent	250
	(a) Evidence the prosecution intend to	
	call	250
	(b) Evidence the prosecution do not	
	intend to call	252
	(c) Miscellaneous	255
	(d) Disclosure by the defence	257
	7 The guilty plea	262
	(a) The innocent who plead guilty	263
	(b) Does pleading guilty mean getting a	
	lighter sentence?	267
	(c) Bargaining with the police over the	
	plea	271
	(d) Bargaining with the prosecution	
	and the judge over the plea	273
	8 Committal proceedings	279
	9 Voluntary bill of indictment	284
	10 Publicity and contempt	284
	11 Delays in criminal cases	287
CHAPTER 4	THE TRIAL PROCESS	291
	I The inquisitorial compared with the	
	adversary system	291
	(a) The judge must not intervene unduly	293
	(b) The judge does not call or examine	
	the witnesses	295
	(c) The inquisitorial system contrasted	303
	(d) Tribunals and the adversary system	313
	(e) The role of the justices' clerk	319
	2 The advantages of being represented	325
	3 Handicaps of the unrepresented	326
	(a) In the magistrates' courts	327

		Contents	ix
	(b) In the county courts		332
	(c) Voluntary arbitration scheme for		
	small claims		334
	(d) Small claims 'arbitration' in county		
	courts		335
	4 Establishing the facts in court: the		
	unreliability of human testimony		339
	5 The principle of orality		345
	6 Justice must be seen to be done		346
	7 The exclusionary rules of evidence		348
	(a) Evidence excluded because it might		
	be unduly prejudicial		349
	(b) Evidence excluded because it is		
	inherently unreliable		357
	(c) Evidence excluded because its		
	admissibility would be against the		
	public interest		367
	8 Who wins trials?		386
HAPTER 5	The Jury		387
	(a) The origins of the jury system		387
	(b) Eligibility for jury service		387
	(c) Challenging of jurors		391
	(d) Vetting of jury panels		399
	(e) The extent to which juries are used		404
	(f) Aids to the jury		410
	(g) The quality of jury decision-making		412
	(h) Respective roles of judge and jury		418
	(i) Majority jury verdicts		42 I
	(j) Retrials on jury disagreement		422
	(k) Will the Court of Appeal consider		
	what happened in the jury room?		423
	(1) Publication of the secrets of the		
	jury room		426
	(m) Operation of the jury in former		
	times		427
	(n) Does the jury acquit too many		
	defendants?		430
	(o) Which level of criminal court acquits		
	most defendants?		437

	(p) Should the jury be retained?	438
CHAPTER 6	Costs and Legal Aid	446
	I Can we afford the cost of British justice?	446
	(a) The level of costs	446
	(b) The categories of costs	450
	(c) Controls on fees	453
	(d) What can be done about costs in	
	English trials?	454
	(e) Should costs follow the event?	456
	(f) Exceptions to the indemnity rule of	
	costs	464
	2 Legal aid	472
	(a) Legal aid in civil proceedings	474
	(b) Costs of successful defendants	
	against legally aided plaintiffs	478
	(c) Legal aid in criminal proceedings	479
	(d) Duty-solicitor schemes	486
	(e) Legal advice and assistance	488
	(f) Legal aid for groups	490
	(g) Legal aid work heavily concentrated	491
	(h) Is there a need for legal aid in	
	tribunals?	492
	(i) Legal aid administration	495
CHAPTER 7	The Enforcement of Judgment	
	Debts	497
	1 Methods of enforcement	497
	2 The Payne Committee's report	504
	(a) Criticisms of the system	505
	(b) Payne Committee's proposals	507
	(c) Implementation of the Payne	
	Committee's report	508
	3 The National and Welsh Consumer	
	Councils' report	508
	(a) Criticisms of the present system	510
	(b) Proposals for reform	512
	(c) Enforcement office in Northern	
	Ireland	514

		Contents x1
	(d) The Civil Justice Review	
	Consultation Paper	515
	(e) Computerization	517
CHAPTER 8	APPEALS	520
CHAPIER	The structure of appeal courts	52 I
	(a) Civil cases	
	(b) Criminal cases	521
	(c) The Judicial Committee of the Privy	522
	Council	F.O.O.
mon	2 The appeal process	522
	(a) The right to appeal	523
		523
	(b) Practice and procedure of appeals (c) The grounds of appeal	525
	(c) The grounds of appeal (d) Proposed the Count of Attack	538
	(d) Powers of the Court of Appeal	538
	(e) Review by appeal courts of findings	
	of fact by trial courts	543
	(f) Review by the appeal court of	
	discretionary decisions	544
	(g) Power to receive fresh evidence	546
	(h) The 'proviso' to s.2 of the Criminal	
	Appeal Act 1968	552
	(i) Power to order retrials in criminal	
	cases	555
	(j) Rates of appeal and success rates	560
	(k) 'Appeal' by way of judicial review	561
	3 The machinery for avoiding a	
	miscarriage of justice	563
CHAPTER 9	THE LEGAL PROFESSION	574
	The component parts of the profession	574
	(a) The Bar	574
	(b) The solicitors' branch	583
	(c) Law centres	586
	2 Monopolies and restrictive practices	
	(a) The divided profession	592
		592
	(b) The solicitors' conveyancing	600
	monopoly (a) Diabte of audience	603
	(c) Rights of audience	613
T -	3 The use of lawyers	627
INDEX		629