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## ACTIVITY 61

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### The timing of reasonable steps (allow 20 minutes)

Using one of the legal databases, access the case of *Thornton v. Shoe Lane Parking Ltd* [1971] 2 QB 163. We considered certain aspects of this case in Part 1 of the last activity when we looked at onerous or unusual clauses. Please read the facts again and the judgments of Lord Denning and Sir Gordon Willmer and answer the following questions:



- 1 When did Lord Denning MR think the contract was formed at a car park using an automatic ticket machine? What was the offer and what was the acceptance? Did Lord Denning think that the ticket or notice inside the car park were incorporated as part of the contract?
- 2 How did Sir Gordon Willmer think that sale by an automatic ticket machine differed from sale by a person? Do you agree with the distinction he draws?
- 3 Where did Sir Gordon Willmer think the conditions should be posted?

#### COMMENT

- 1 Lord Denning MR thought that the offer was contained in the notice by the entrance to the car park. This notice only excluded damage to the car. The acceptance occurred when the claimant drove up to the barrier causing the ticket machine to issue the ticket. The contract was formed at this stage, so any conditions on the ticket or inside the car park came too late to be incorporated into the contract.
- 2 Sir Gordon Willmer thought that in ticket cases involving sale by a person, the customer has, at least in theory, the chance to object to the conditions and to refuse to accept the ticket. By contrast, a ticket produced by an automatic machine is an irrevocable process. He thought that conditions could not be introduced after the customer had caused the machine to operate. The distinction he draws between sale by an automatic ticket machine and sale by a person is a little artificial as, in practice, the customer is unlikely to have the chance to consider the conditions and object to them in either situation.
- 3 Sir Gordon Willmer suggested that all conditions should be on a prominent notice at the entrance to the car park.