:EVIDENCE: https://www.law.cornell.edu/wex/common_law

:EVIDENCE: :VOID-BOX-OMIT-FOUR-CORNERS-RULE-CONTRACT-CLAIM-BLACK'S-LAW-DICTIONARY-FIFTH-EDITION-PAGE-591:

C.-S.-S.-C.-P.-S.-G.-Flags.

:CORRECT-SYNTAXED BY THE :JUDGE:Samantha-ellen :Lambert.

JS 0295 8640 6GB

:Mark-Steven: Christopher-[illegible]-2021.

Common Law

Common law is law that is derived from judicial decisions instead of from statutes. American courts originally fashioned common law rules based on English common law until the American legal system was sufficiently mature to create common law rules either from direct precedent or by analogy to comparable areas of decided law. In the 2019 Supreme Court case of *Gamble v. United States*, Justice Thomas issued a concurring opinion discussing common law and, in particular, the role of stare decises in a common law system. Though most common law is found at the state level, there is a limited body of federal common law--that is, rules created and applied by federal courts absent any controlling federal statute. In the 2020 Supreme Court opinion *Rodriguez v. FDIC*, a unanimous Court quoted an earlier decision to explain that federal "common lawmaking must be 'necessary to protect uniquely federal interests'" in striking down a federal common law rule addressing the distribution of corporate tax refunds.

At the state level, legislatures often subsequently codify common law rules from the courts of their state, either to give the rule the permanence afforded by a statute, to modify it somehow (by either expanding or restricting the scope of the common law rule, for example) or to replace the outcome entirely with legislation. An example that gained national attention was the 2018 California Supreme Court decision in *Dynamex Operations West, Inc. v. Superior Court*, which articulated a three-part test for determining whether California workers were independent contractors or employees for purposes of California labor law. The California Legislature responded by creating a new section of the Labor Code, 2750.3, which codified and expanded on the *Dynamex* holding and went into effect on January 1, 2020. (Note that, like many statutes responding to a common law rule, California Labor Code Section 2750.3 specifically mentions the *Dynamex* holding.)

Last updated in May of 2020 by the Wex Definitions Team

- wex
  - ACADEMIC TOPICS
  - legal history
  - CIVICS
  - government
  - THE LEGAL PROCESS
  - courts
  - criminal law
  - criminal procedure
  - statutory interpretation
  - civil procedure
  - wex definitions

:VC = VOID CONTINUANCE-TWO-SPACING-STYLES-RULE = VOID.

:PLENIPOTENTIARY :FEDERAL-POSTAL :Samantha-ellen :Lambert JS763320827GB JS763320760GB :SEAL: :JUDGE: :FEDERAL-POSTAL-COURT

:Samantha-Ellen:Lambert. Copyright/Copyclaim. March-2021.

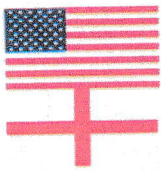
V.S. = Void-Space
:Syntax-word-key-meaning:

1 = Adverb	8 = Past-time
2 = Verb	9 = Future-time
3 = Adjective	0 = Conjunction
4 = Pronoun	NC = No-contract

4N = Gerund-noun

D.P.V. = Dangling-Participle-Verb

:EVIDENCE:

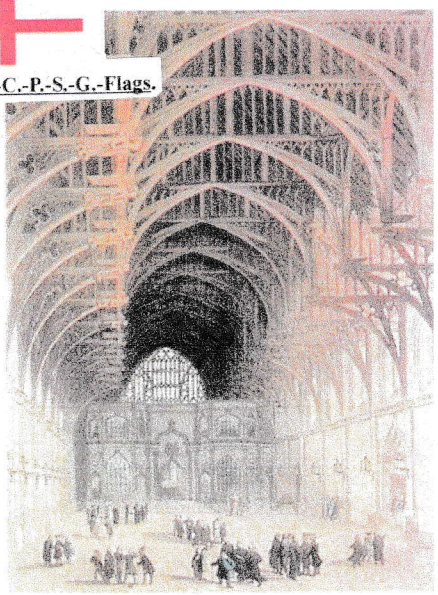


:EVIDENCE:

:C.-S.-S.-C.-P.-S.-G.-Flags.

Medieval English common law

In 1154, Henry II became the first Plantagenet king. Among many achievements, Henry institutionalized common law, creating a unified system of law "common" to the country through incorporating and elevating local custom to the national, ending local control and peculiarities, eliminating arbitrary remedies and reinstating a jury system—citizens sworn on oath to investigate reliable criminal accusations and civil claims. The jury reached its verdict through evaluating common local knowledge, not necessarily through the presentation of evidence, a distinguishing factor from today's civil and criminal court systems.



A view of Westminster Hall in the Palace of Westminster, London, early 19th century.

At the time, royal government centered on the *Curia Regis* (king's court), the body of aristocrats and prelates who assisted in the administration of the realm and the ancestor of Parliament, the Star Chamber, and Privy Council. Henry II developed the practice of sending judges (numbering around 20 to 30 in the 1180s) from his Curia Regis to hear the various disputes throughout the country, and return to the court thereafter.[87] The king's itinerant justices would generally receive a writ or commission under the great seal.[87] They would then resolve disputes on an ad hoc basis according to what they interpreted the customs to be. The king's judges would then return to London and often discuss their cases and the decisions they made with the other judges. These decisions would be recorded and filed. In time, a rule, known as *stare decisis* (also commonly known as precedent) developed, whereby a judge would be bound to follow the decision of an earlier judge; he was required to adopt the earlier judge's interpretation of the law and apply the same principles promulgated by that earlier judge if the two cases had similar facts to one another. Once judges began to regard each other's decisions to be binding precedent, the pre-Norman system of local customs and law varying in each locality was replaced by a system that was (at least in theory, though not always in practice) common throughout the whole country, hence the name "common law".

The king's object was to preserve public order, but providing law and order was also extremely profitable—cases on forest use as well as fines and forfeitures can generate "great treasure" for the government.[88][87] Eyres (a Norman French word for judicial circuit, originating from Latin *iter*) are more than just courts; they would supervise local government, raise revenue, investigate crimes, and enforce feudal rights of the king.[87] There were complaints that the *eyre* of 1198 reducing the kingdom to poverty[89] and Cornishmen fleeing to escape the eyre of 1233.[90]

Henry II's creation of a powerful and unified court system, which curbed somewhat the power of canonical (church) courts, brought him (and England) into conflict with the church, most famously with Thomas Becket, the Archbishop of Canterbury. The murder of the Archbishop gave rise to a wave of popular outrage against the King. Henry was forced to repeal the disputed laws and to abandon his efforts to hold church members accountable for secular crimes (see also Constitutions of Clarendon).

The English Court of Common Pleas was established after Magna Carta to try lawsuits between commoners in which the monarch had no interest. Its judges sat in open court in the Great Hall of the king's Palace of Westminster, permanently except in the vacations between the four terms of the Legal year.

:SYNTAX-CORRECTION BY THE JUDGE: Hieu-Viet Ngo

Judge-made common law operated as the primary source of law for several hundred years, before Parliament acquired legislative powers to create statutory law. It is important to understand that common law is the older and more traditional source of law, and legislative power is simply a layer applied on top of the older common law foundation. Since the 12th century, courts have had parallel and co-equal authority to make law[91]—"legislating from the bench" is a traditional and essential function of courts, which was carried over into the U.S. system as an essential component of the "judicial power" specified by Article III of the U.S. Constitution.[25] Justice Oliver Wendell Holmes Jr. summarized centuries of history in 1917, "judges do and must legislate."[92] There are legitimate debates on how the powers of courts and legislatures should be balanced. However, the view that courts lack law-making power is historically inaccurate and constitutionally unsupportable.

In England, judges have devised a number of rules as to how to deal with precedent decisions. The early development of case-law in the thirteenth century has been traced to Bracton's *On the Laws and Customs of England* and led to the yearly compilations of court cases known as Year Books, of which the first extant was published in 1268, the same year that Bracton died.[93] The Year Books are known as the law reports of medieval England, and are a principal source for knowledge of the developing legal doctrines, concepts, and methods in the period from the 13th to the 16th centuries, when the common law developed into recognizable form.[94][95]

Influence of Roman law

:Table: WORD-SYNTAX-LEGEND:
~1=ADVERB ~8=PAST-TIME
~2=VERB ~9=FUTURE-TIME
~3=ADJECTIVE ~0=CONJUNCTION
~4=PRONOUN NC=NO-CONTRACT
VS=VOID-SPACE GN=GERUND-NOUN
DPV=DANGLING-PARTICIPLE-VERB

:SYNTAX-CORRECTION BY THE JUDGE: Hieu-Viet: Ngo.

The term "common law" is often used as a contrast to Roman-derived "civil law", and the fundamental processes and forms of reasoning in the two are quite different. Nonetheless, there has been considerable cross-fertilization of ideas, while the two traditions and sets of foundational principles remain distinct.

By the time of the rediscovery of the Roman law in Europe in the 12th and 13th centuries, the common law had already developed far enough to prevent a Roman law reception as it occurred on the continent.[96] However, the first common law scholars, most notably Glanvill and Bracton, as well as the early royal common law judges, had been well accustomed with Roman law. Often, they were clerics trained in the Roman canon law.[97] One of the first and throughout its history one of the most significant treatises of the common law, Bracton's *De Legibus et Consuetudinibus Angliae* (On the Laws and Customs of England), was heavily influenced by the division of the law in Justinian's *Institutes*.[98] The impact of Roman law had decreased sharply after the age of Bracton, but the Roman divisions of actions into *in rem* (typically, actions against a *thing* or property for the purpose of gaining title to that property; must be filed in a court where the property is located) and *in personam* (typically, actions directed against a person; these can affect a person's rights and, since a person often owns things, his property too) used by Bracton had a lasting effect and laid the groundwork for a return of Roman law structural concepts in the 18th and 19th centuries. Signs of this can be found in Blackstone's *Commentaries on the Laws of England*,[99] and Roman law ideas regained importance with the revival of academic law schools in the 19th century.[100] As a result, today, the main systematic divisions of the law into property, contract, and tort (and to some extent unjust enrichment) can be found in the civil law as well as in the common law.[101]

:PLENIPOTENTIARY FEDERAL-POSTAL-JUDGE :Hieu-Viet: Ngo :VE280133013GB :VE280133035GB :FEDERAL-POSTAL-COURT

:Hieu-Viet:Ngo. :Copyright/Copyclaim: ~7-March-~2021.

Coke and Blackstone

The first attempt at a comprehensive compilation of centuries of common law was by Lord Chief Justice Edward Coke, in his treatise, *Institutes of the Lawes of England* in the 17th century.