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# **ENGLISH SYSTEM OF PRECEDENT: EVOLUTION AND HEIRARCHY**

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## **INTRODUCTION**

The English legal system heavily relies on judicial precedent, where past decisions influence future ones. This principle is rooted in the doctrine of stare decisis (let the decision stand), which ensures consistency in judgement. However, the English system is unique in its coercive approach to precedent requiring judges to follow prior decisions even though they have valid reasons to deviate. Precedents can either be binding or may be persuasive depending on the circumstances.

Case-law derived from judge's decision forms a significant part of English law. While some areas of laws are derived from statutes, judicial decisions often shape their interpretation. Despite parliament's sovereignty, legislature changes to address problematic case law can be slow due to limited parliamentary time. Efforts to reform the law have been made by bodies like the law reform committee, the criminal law revision committee and the law commission established in 1965 to systematically review, reform and codify law. The commission's work may reduce the role of case law over time by creating legal codes for major branches of law.

The important two processes involved in the judicial process may be either inductive or deductive. The function of judges may vary as per the method they choose from these two or as per which method they adopt. In inductive method they consider rules and principles from the previous case and apply them on the cases before them. In deductive method a great amount of reliance is placed on legislature and enacted statutes. There are two main theories to be discussed. The first principle is associated principally with codified systems, assume that legal rule applicable to any particular case is fixed and certain from beginning and all that is required of the judge is to apply this rule as justice according to law demands without reference to his own personal view. His decisions are not necessarily influenced by the deductions of other

tribunals. In the second theory, even though involves the same objective of first theory as to finding the general rule applicable to particular case but it does not conceive the rule as being applicable directly by simple deduction. The English judge has to search for master principle in the learning and dialectic which have been applied to the particular facts. Thus, he is always reasoning inductively and, in the process, he is said to be bound by the decisions of tribunals higher than his own. In the one theory antecedent decisions are helpful only as illustrations of a general propositions, in the other theory they are the very soil from which the general proposition may be mined.

## **1. EVOLUTION**

It is difficult to determine the precise stages of evolution. It has been conjectured that reports existed digested in years and terms as ancient as the time of king William the conqueror, but this speculation rests on no authority. The knowledge of decided cases was the mark of a learned lawyer at that time, though from what source such knowledge was derived we cannot tell. Citation of cases scarcely exists in our earliest institutional writers. In Glanville one decision is referred to in Fleta on, in Britton none, in Littleton eleven. With Bracton the case is very different and it is from him that the evidence begins to take shape. Bracton had laid down a general principle in roman lines that, if any new circumstances hitherto unprecedented in the realm shall arise and if anything, analogues has happened before, let the case be adjudged in the like manner. But if nothing of the same kind has ever happened then let such matters be referred to magna curia (great court). In history it was used to refer to parliament. There be some who are so confident of their knowledge of every part of the law, but in such case, it would be more prudent of them to take advice than to come to rash decision, since it is expedient to be in doubt on particular points of law. Bractons treatise itself contain some 500 references to decided cases. He resorted to decisions taken from court rolls and probably often from personal recollection as part of his ordinary method of legal exposition. Most striking of all is the evidence furnished by the celebrated notebook which bracton certainly used, if he did not compile it with his own hand, no lawyer would have been at the pains of making this collection of about 2000 decided cases or having it made from him, unless he laid great store by it as a practice book. Bractons law as Maitland has emphasised was therefore case law in very sense and in dealing with concrete matters he appeals not to reason or nature but the cases adjudged by Martin Pateshall or William Rabigh. Some of the Bractons cases themselves carry us back a stage farther and show us that judges were seeking the guidance of precedent early in the thirteenth century.

With the beginning of yearbook, we can form some notion of the practical working of precedents in the courts. Decisions are cited often enough to show that both bench and bar consider them relevant part of the argument. At the beginning of 14<sup>th</sup> century counsel solemnly reminds the court that “the judgement to be by you now given will be here after an authority in every quare non Amidist in England”. In proportion to the total number of cases contained in the yearbooks the amount of citation is small though by no means considerable and it is not improliable that the recorded instances represent only a small portion of citations actually employed in court since most of the yearbook reports are highly compressed and gives us only fragments of the case as it was presented to the court.

In 16<sup>th</sup> century the yearbook ceased publication and became known primarily to lawyers through abridgements. This marked the beginning of a new era of private legal reports which proliferated in extra ordinary numbers until the mid-19<sup>th</sup> century.

Coke, a pivotal figure in the development of common law valued precedent and tradition in legal and constitutional matters. He believed strongly in authority of past cases but emphasised the need for intelligent and relevant use of precedent. While he criticised the indiscriminate citation of authorities prevalent in his time, he occasionally fell into the same practice. Coke noted a shift from citing general principles in earlier yearbook days to an excessive reliance on numerous examples in his era often lacking relevance or coherence which weakened legal arguments.

Further according to Coke the usefulness of case law was being undermined either by inaccurate legal reporting or by the absence of any definitive reporting at all. Coke published his reports to create a permanent record of significant cases and to set a standard for accurate and learned legal reporting. Despite his verbose style, he achieved these goals and greatly influenced the common law. His work transformed England’s unwritten law into a more structured and accessible system ensuring judicial record were preserved systematically. Combining deep scholarship with practical advice he encouraged law students to study recent judgements before delving into older more complex legal texts. Coke influences were delayed as the success of his reports inspired imitators who often misapplied his principles, embodying the flaws he criticized. During the constitutional crises and commonwealth period, the theory and practice of precedent became inconsistent.

This instability persisted until Sir James Burrows reports in the mid-18<sup>th</sup> century. Notably chief justice John Vaughan (1668-1674) attempted to establish a systematic theory on the authority of precedents and the distinction between *rationes decidendi* and the *dicta* seventy-three years after Coke's first reports.

In the mid-eighteenth century the principle of precedent became central to the common law system with Lord Mansfield playing a pivotal role in its development. His judicial philosophy balanced two key principles: the importance of certainty and consistency in decisions and the need to avoid the rigid mechanical application of precedent. Mansfield valued precedent as a means to clarify and uphold legal principles but resisted their blind application without considering their relevance to the case at hand. He sought to adapt and refine the existing legal framework rather than dismantle it, blending reform with respect for tradition. His approach emphasised the use of reliable precedents and established practices to ensure certainty, particularly in areas like corporate law. Mansfield's work laid the foundation for the eventual consolidation of the case law in the 19<sup>th</sup> C, highlighting the interplay between adherence to precedent and the intelligent application of underlying legal principles.

Lord Mansfield reinforced the importance of judicial consistency while rejecting the superficial reliance on mere citations of precedent without understanding their underlying principles. In *Jones v Randall* (1774)<sup>1</sup> he emphasised that English law is based on principles in specific contexts. Similarly, in *Fisher v Prince* (1762)<sup>2</sup> he asserted that the essence of the law lies in the reason and spirit of cases, not in rigid application of precedents. Mansfield's approach highlighted the need for thoughtful application of legal principles to individual circumstances. In Lord Mansfield's time the lack of a standardised and reliable system of legal reporting significantly impacted the use of precedents. Unlike today's organised and judge-received reports, the eighteenth-century legal system relied on inconsistent and often flawed reports which varied in quality and reliability depending on the reports. This inconsistency required judges to critically assess the credibility of reported cases before treating them as authoritative. Mansfield has been criticised for dismissing reports that conflicted with his decisions but this practice was common for judges of his era given the variable quality of reports. His actions reflected the need to scrutinize the validity of precedents rather than a deliberate disregard for authority. This highlights the challenges of relying on precedents in a time when their recording

<sup>1</sup> *Jones v. Randall*, [1774] EngR 42, (1774) 1 Cowp 17, (1774) 98 ER 944 (A)

<sup>2</sup> *Fisher v. Prince*, (1762), 3 Burr. Part IV. 1365.

lacked the rigor and uniformity seen in modern legal systems.

By Lord Mansfield time the system of legal reporting had evolved significantly but remained inconsistent and flawed. The older yearbooks had become largely obsolete replaced by a growing body of reports- nearly a hundred volume or series of varying quality. Among these works three stood out: Cokes reports which served as comprehensive legal encyclopaedia, Plowden's report valued for their learning but somewhat outdated and Saunders report, renowned for their focus on pleading. Other reports fell into three categories: a dozen or so were considered authoritative but uneven in quality, others like those by strange, Lord Raymond and Blackstone's, were respected but were not uniformly reliable, and a third group was of lower status often criticised for inaccuracy and lack of clarity. None of these reports had binding authority comparable to modern authorised reports. The disparity in quality aroused from the lack of standardization in reporting, with many reports initially compiled for private use rather than publication. This issue worsened during the commonwealth period, leading to a proliferation of unreliable reports. The result was a chaotic and inconsistent body of legal records, which complicated the use of precedents in court. Later English legal system transitioned toward a systematic approach of law reporting, strengthened the hierarchy and doctrine of precedent balanced the rigidity of precedent with adaptability, particularly in the 20 C, saw the rise of statutory law alongside common law, spread its influence globally cementing England's legal legacy.

The rules of precedent in English law have evolved from rigidity to flexibility, marked by the 1966 Practice Statement, allowing the House of Lords to overrule past decisions. Key principles are: respect for superior court rulings, persuasive value of higher court decisions, and binding authority on lower courts.

## **2. HIERARCHY**

In the civil court hierarchy, the lowest courts are the County and Magistrates' Courts with limited jurisdiction, followed by the High Court with unlimited jurisdiction. The Divisional Courts handle some appeals and special cases, while the Court of Appeal (Civil Division) hears appeals from lower civil courts. At the top is the House of Lords, hearing appeals from the Court of Appeal and equivalent courts in Scotland and Northern Ireland. In the criminal court hierarchy, Magistrates' Courts handle summary cases, with appeals going to the Crown Court or the Divisional Courts for appellate and supervisory work. Trials on indictment occur in the

Crown Court, with further appeals to the Court of Appeal (Criminal Division) and then the House of Lords.

## **CONCLUSION**

The English system of precedent stands as a cornerstone of common law, balancing the need for legal certainty with the demand for judicial flexibility. From its early, fragmented use in Bracton's time to the structured doctrine of stare decisis recognized today, precedent has evolved into a disciplined method of legal reasoning. Its development was shaped by key figures such as Bracton, Coke, and Lord Mansfield, each contributing to the refinement and rationalization of case law.

Despite historical inconsistencies in legal reporting and the challenges posed by rigid adherence to past decisions, the system has matured into one that values both authority and adaptability. The hierarchical court structure ensures that decisions from superior courts bind those below, maintaining uniformity, while tools like the 1966 Practice Statement provide mechanisms for judicial correction and progression.

In modern times, the interaction between statute and case law, the growing influence of international legal norms, and the global spread of English legal traditions continue to shape the precedent system. Ultimately, the English doctrine of precedent exemplifies a legal tradition that respects the past while allowing room for the evolution of principles in response to changing societal needs.

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