More on the Common Law

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Law and Economics-Charles W. Upton

Common Law

· Judges went throughout England



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Common Law

- Judges went throughout England
- Local juries determined the facts.

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Common Law

- · Judges went throughout England
- Local juries determined the facts.
- Judges then ruled, given their knowledge of the law and what the locals told them were the facts

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Precedents

 Through an accumulation of decisions, one could begin to count on the court ruling a given way.



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Precedents

- Through an accumulation of decisions, one could begin to count on the court ruling a given way.
- The Common Law system of *precedents* was pretty informal: remember the difficulties of consulting the law books.

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The Importance of Precedents

 These "precedents", like our more formal system today, still had great value. Once they were set, people knew how the court was likely to rule.



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And, if you know how the judge will rule, why go to the expense of going to court?

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The Importance of Precedents

• These "precedents", like our more formal system today, still had great value. Once the This is Hicks-Kaldor Optimal! court was Transactions costs are minimized will rule, why go to the expense of going to court?



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These Decisions Today

 Even though early records are poor, there is a pretty good record of the decisions judges reached.



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These Decisions Today

- Even though early records are poor, there is a pretty good record of the decisions judges reached.
- Coke writes "it was the established practice amongst judges to...".

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These Decisions Today

- These decisions form the basis of our current legal system. Judges established rules in many areas,
- such as criminal behavior, ar property, contracts, and torts.

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Modern Precedents

• Today, we have a hierarchy of courts. If the Supreme Court says "given these facts, the law is..." all courts throughout the United States are expected to rule the same way



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Modern Precedents

• Today, we have a hierarchy of courts. If the Suprem law is...

States at In rare –very rare- cases, precedents are reversed (Plessey v. Ferguson is perhaps the most notable, and there are still debates about Roe v. Wade).



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Modern Precedents

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Modern Precedents

• Today, we have a hierarchy of courts. If the Supreme In rare –very rare- cases, More consistent are reversed precedents.

This means even fewer lawsuits, for the law is better understood.

If the Supreme In rare –very rare- cases, the itted ay notable, debates ade).



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