

## Module 2 examines institutional developments in the English legal system



- The ancient jurisdiction of royal courts
- Membership of the legal profession
- Legal education
- The evolution of law reporting from the medieval period into the Tudor era

Growth of the legal profession including:

- The Common Law Courts and Forms of actions – Trespass, Trespass on the Case, and Assumpsit
- Legal education and the stratified legal profession
- The Courts of Equity/Conscience
- Sir Edward Coke: an introduction via Slade's Case and Bonham's Case
- Precedent, reporting, judicial review

## Key terms

**Tort** **Tort law** is a branch of **civil law** that deals with **wrongful acts** that cause **harm or injury** to others, leading to **legal liability**. Unlike **criminal law**, which punishes wrongdoers on behalf of the state, **tort law allows individuals to seek compensation for damages**.

- 1 **Duty of Care** – The defendant had a **legal obligation** to act in a certain way.
- 2 **Breach of Duty** – The defendant **failed** to uphold that duty.
- 3 **Causation** – The breach **directly caused harm** (actual and foreseeable).
- 4 **Damages** – The plaintiff suffered **loss or injury** as a result.

**Contract** An agreement or set of promises that the law will enforce

**Trespass** is a legal term used in **tort law** to describe an unlawful **interference with a person's rights, property, or body**. It is a **civil wrong** where the injured party can sue for damages, even if no actual harm occurred.

*Entick v Carrington (1765)* – Government officials cannot search property without legal authority.

*Collins v Wilcock (1984)* – Any unwanted physical contact can be battery.

*Fouldes v Willoughby (1841)* – Removing someone's property without authority is trespass.

### Definition of Contract

A Basic Definition:

an agreement or set of promises that the law will enforce

**Assumpsit** was a key legal concept in **contract law** that emerged in medieval England. It allowed people to sue for **breach of an agreement** even if there was **no formal written contract** under **common law**.

Slade's Case 1602

- ✓ Allowed lawsuits for **failure to perform a promise**.
- ✓ Applied to cases where **no formal contract existed**, expanding legal remedies.
- ✓ Required proof that a **promise** had been made and **damages** resulted from its breach.

## Webinar 2 fundamentals



### Key Figures

- [Glanvil and Bracton](#) **Glanvil and Bracton** were two early English legal texts that helped shape the development of **common law** in medieval England.
  - [Cardinal Wolsey](#)
- ✓ **Developed England's legal system**, especially the **Chancery and Star Chamber**.

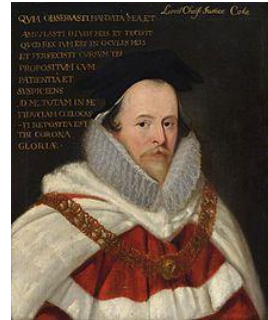
- James VI (Sco) and I (Eng)

- ✓ United England and Scotland under one monarch.
- ✓ Strengthened royal authority but fuelled opposition to absolutism.
- ✓ Commissioned the King James Bible, shaping English culture and religion.

- Sir Edward Coke

**Sir Edward Coke** was a leading **English jurist, judge, and politician** known for his role in shaping **common law, judicial independence, and constitutional principles**

1. Defender of Common Law Against Royal Power (vs James I)
2. Judicial Review & Parliamentary Supremacy *Bonham's Case* (1610)
3. Development of Contract & Property Law **Slade's Case (1602)**,
4. The Petition of Right (1628)
5. The Institutes of the Laws of England (incl Magna Carta)



- Ralph Hengham is believed to have been born in the early 13th century, though details about his early life are limited. He became a prominent lawyer and judge during the reign of **Henry III** (1216–1272)
- Sir William Shareshull was a prominent English judge in the 14th century, particularly known for his role in the **Court of King's Bench**

- **Sir Francis Bacon**

- ✓ **Father of the Scientific Method** – His **empirical approach** changed how science is conducted.
- ✓ **Legal Reformer** – Advocated for **clear, rational laws and judicial integrity**.
- ✓ **Political Theorist** – Explored ideas on **power, governance, and knowledge**.

Despite his **political downfall**, Sir Francis Bacon remains one of the most **influential thinkers in science, law, and philosophy**.

## Key institutions and offices

### Inns of Court and Chancery

The **Inns of Court** are professional associations that trained and housed lawyers, especially barristers, in England. The **Inns of Chancery** were originally preparatory schools for law students before they joined the Inns of Court.

- Serjeants and Barristers at Law
- Pleas Rolls, Year Books and Reports

### King's Bench

The **King's Bench** was one of the main royal courts in medieval England. Over time, it became a key common law court, dealing primarily with:

1. **Criminal Cases** – Handling serious offenses such as treason and felony.
2. **Civil Cases** – Particularly those involving disputes where the King's authority was invoked.

3. **Supervisory Role** – It had authority over lower courts, ensuring justice was administered correctly.

## Common Pleas

Figure 2.1 Common Law Courts' Jurisdictions and Personnel

	King's Bench	Common Pleas	Exchequer
<b>Jurisdiction</b>	<ul style="list-style-type: none"> <li>• All crimes</li> <li>• Challenges to decisions of inferior courts</li> <li>• Civil actions against the king</li> </ul>	Litigation involving land, and civil actions between subjects (the action does not involve the king)	Recovery of tax, and actions involving taxation officials
<b>Personnel</b>	Chief Justice supported by several puisne (pronounced 'puny') justices	Chief Justice supported by several puisne justices	Chief Baron and Barons

- **Chancery**

The **Court of Chancery** was a key institution in English legal history that developed the principles of **equity** to provide **fair and flexible remedies** where common law was too rigid or unjust. It was presided over by the **Lord Chancellor** and became known for offering solutions beyond monetary damages, such as injunctions and specific performance.

- **Star Chamber**

The **Star Chamber** was a special court in England that operated from the late 15th century until it was abolished in 1641. It was originally created to ensure justice for cases involving powerful individuals who might otherwise avoid punishment through influence or corruption.

- **Court of Requests**

The **Court of Requests** was a special English court established in the late 15th century to provide **cheap and accessible justice**, particularly for **poor people and those who could not afford regular legal proceedings**.

**Estoppel** is a legal principle that prevents a person from going back on their word when their previous statements or actions have led someone else to rely on them. It ensures fairness and prevents injustice in situations where strict legal rules might otherwise allow unfair conduct.

## Key terms and cases

### Humber Ferry Case

- Where a defendant had promised to do something and had done so negligently, the plaintiff could now succeed with a writ of trespass on the case.
- The King's Bench decision of *Bukton v Tounesende* (the *Humber Ferry Case*) in 1348 is a landmark case in the development of modern contract law. According to Baker, the *Humber Ferry Case* is momentous because here the King's Bench first imposed liability in trespass on a defendant who had promised to do something and had done so negligently.

- *For Contract-* The **Humber Ferry Case** refers to *Blackpool and Fleetwood Tramroad Co v Blackpool Corporation (1907)*, which dealt with **contract law, public transport services, and implied terms**.
- *Case of the Thorns* The **Case of the Thorns** (*Hull v. Orchard*, 1466) is one of the earliest recorded cases in English **tort law**, particularly dealing with **trespass and accidental harm**.

#### Legal Significance:

1. **Established the principle of strict liability in trespass** – A person could be held liable for direct physical intrusion onto another's land, even if unintentional.
2. **Influenced later tort law** – This case shaped how courts handle cases of **accidental harm and liability** in property disputes.

- **Carrier's Case, larceny and breaking bulk**

The **Carrier's Case** (*Sanford v. Robins*, 1473) The court ruled that the carrier's act was **not just a breach of contract but also a crime** (larceny). This was an important expansion of criminal liability because, before this case, larceny typically required an **unlawful taking from the start**. The court decided that **fraudulently misusing goods entrusted to someone could still be theft**

- **Trespass and Trespass on the Case**

Trespass refers to an **immediate and direct interference** with a person, property, or land, usually involving force. It was considered a serious wrong (**vi et armis**, meaning "by force and arms").

**Trespass on the case** (or simply "**case**") dealt with **indirect harm**—wrongs that **did not involve direct force** but still caused damage. It evolved to address situations where the harm was **a result of negligence, nuisance, or fraud**.

- **Assumpsit**

**Assumpsit** was a legal action in early English **contract law** that allowed plaintiffs to sue for damages when someone failed to fulfill a promise or agreement.

- ✓ Allowed **verbal promises** to be legally binding.
- ✓ Laid the foundation for the **modern concept of contract law**.
- ✓ Replaced "**action of debt**", which required strict proof of a fixed amount.
- ✓ Led to the idea of "**implied contracts**"—where obligations exist even if not explicitly stated.

- **Equity**

**Fairness Over Strict Rules** – Equity considers **circumstances** rather than just applying the law rigidly

- **Witchcraft**

- ✓ Shows how superstition influenced early legal systems.
- ✓ Reveals historical gender biases (most accused were women).
- ✓ Led to modern protections against false accusations and unfair trials.

While witch trials have ended in most places, **historical laws against witchcraft highlight the dangers of fear-driven justice.**

- *Bonham's case*

**Bonham's Case** was a landmark **English legal decision** by **Sir Edward Coke**, which suggested that **common law could override parliamentary statutes** if they were unjust. It is often seen as an early argument for **judicial review**—the idea that courts can rule laws invalid if they conflict with fundamental principles of justice.

- *Slade's case*

**Slade's Case** was a landmark English legal decision that played a crucial role in the development of **contract law**, particularly in establishing the legal principle that a **simple contract (without a deed) could be enforced through assumpsit** rather than the traditional action of debt.

- **Slade's Case helped shape modern contract law**, making it easier to enforce promises in court.

It marked a shift from medieval legal formalism toward a **more flexible and practical approach** to enforcing business agreements.

By making **assumpsit the dominant legal action for enforcing contracts**, **Slade's Case laid the foundation for modern contract enforcement** and helped develop the commercial legal system.

- There are records from 1130 of the eyres in operation
- Before common law courts became dominant, justice was primarily handled by local courts, such as county, hundred, seigniorial, manorial, and borough courts. Plaintiffs had to provide security (a monetary bond) before summoning defendants to court.
- Cases followed a structured process: the plaintiff made claims, the defendant denied them, and the issue was decided using one of three methods of proof: **wager of battle** (trial by combat), **compurgation** (oath-taking with witnesses), or **ordeal** (a divine test, later abolished in 1215).
- Royal justice emerged as an alternative, requiring a fee but offering trial by jury, which became popular. Cases under royal justice were heard in three key courts: the **Court of Common Pleas, King's Bench, and the Exchequer**.