



THE ENGLISH LEGAL SYSTEM

HELEN CAMPBELL, LECTURER



R v. DUDLEY (1884)

- On 5 July, 1884, Thomas Dudley, Edward Stephens, and Joseph Brooks, all able-bodied seaman, along with Richard Parker (a 17-year-old cabin boy), were cast away in a storm on the high seas 1600 miles from the Cape of Good Hope, and put into an open boat. The boat had no supply of water or food, except for two 1-pound tins of turnips, and for three days the men had nothing else to eat. On the fourth day, they caught a small turtle, which they consumed, and then had nothing to eat for another eight days. They had no fresh water, except water rain they could catch in their oilskin capes. On 24 July, Dudley proposed to Stephens and Brooks that the cabin boy (who was now in a more weakened state than the others, and who had neither a wife nor children) should be sacrificed to feed the rest. Brooks dissented and the boy was never consulted. On 25 July, Dudley killed the boy by cutting his throat after offering a prayer asking for forgiveness. The three men then devoured the body. On the fourth day after the killing, the men were rescued by a passing yacht and taken home to England. Dudley was thereafter charged with murder in the first degree.

CLASS PROBLEM

- Rupert, a wealthy English businessman, owned a large parcel of land where he kept sheep, pigs, cows, and horses. He also grew marijuana in a dozen underground facilities. He employed several men to tend to the animals and to his underground operations. One of the men, Billy, kept exotic snakes as pets. Billy's wife hated these pets and threatened Billy with divorce if he didn't remove them. Bill, without Rupert's permission, took all his snakes and hid them in the underground facility. Among these snakes were three pythons, a coral snake, five baby cobras, and two rattle snakes. During the night, a local youth, Sam, broke into the facility looking for marijuana. All of the snakes escaped, crawled across the property and under the fence to the home of Mrs. Guffy, an elderly woman. While Mrs. Guffy was sleeping, one of the pythons wrapped itself around her neck and suffocated her. Mrs. Guffy's son, Jethro, is now suing Rupert for negligence.

SOURCES OF ENGLISH LAW

I. Custom

- “The way things have always been done” (trade usage). Often associated with a geographic locality
- To qualify, must meet the tests of **antiquity, certainty, and reasonableness**
- Initially, English common law consisted of the customs of the royal court
- “Custom” was subject to historic/political forces (e.g. The Black Death)

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2. **Law Merchant** (body of commercial law built on the common law of contracts)
3. **Canon Law** (Church Law)
4. **Books of Authority** (treatises by Coke, Blackstone, and others, still cited in contemporary courts)

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5. Legislation

- *Statute Law* (created by Acts of Parliament—always pre-empts case law)
- *Delegated Legislation* (Parliament can pass “enabling legislation” allowing other agencies to enact laws—must include a statement of *intra vires* powers so the agency does not exceed its powers)

HOW ARE STATUTES INTERPRETED?

3 Rules of Interpretation have evolved:

1. **Literal Rule** (“Plain Meaning Rule”)
2. **Golden Rule** (court can redefine/modify words if their plain meaning is insufficient or absurd)
3. **Mischief Rule** (court adopts whatever meaning the words should have in order to achieve the statute’s purpose—in other words, “what was Parliament’s intent”?)

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6. Case Law

- It is **inductive** (broad principles are developed from a large number of individual decisions—that is, the judges move from the specific decisions to the general rule)
- Contrast with Civil (codified) Law, which is **deductive** (general principles are laid down in advance and are then applied to the individual case—that is, rules—facts—outcome)

STATED DIFFERENTLY:

Codes (legislation) takes effect only from the time of passage, *and tells us what will be from now on*

Case Law tells us what the law already is

REQUIREMENTS FOR APPLYING PRECEDENCE (“STARE DECISIS”)

1. Hierarchical system of courts
2. Reliable system of case reporting
3. Identifiable *ratio decidendi* (core legal principle that forms the basis of the judgment)

GROUNDS FOR IGNORING PRECEDENCE (“STARE DECISIS”)

1. Material difference in the facts of the two cases, such that the *ratio decidendi* of the earlier case cannot be applied (“distinguishing”)
2. The earlier case is outdated or not longer considered “good law” (“overruling”)

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7. Law of the European Community

- Part of English national law since the passage of the European Communities Act of 1972
- EU Law preempts English law whenever the laws conflict with each other
- Brexit?

ELEMENTS OF A JUDICIAL OPINION

What is a judicial opinion? What is its purpose?

Parts:

1. Facts
2. Procedural History
3. Issues
4. Holding
5. Reasoning
6. Disposition

ENGLISH LEGAL VOCABULARY

- Plaintiff/defendant
- Delegation
- Intra vires/ultra vires
- Inductive/deductive
- Appeal/appellate courts
- Black-letter law
- Jurisprudence
- Remedy
- Case citation
- Distinguishing/overruling

QUESTIONS?



