

Anglo-Saxon “courts”

Operated to enforce ‘Folcright’ (customs of the local people)

Village moot, managed agricultural matters and purely local matters

Tithing, a group of ten families represented by a tithingman

Hundred, originally a group of 10 tithings, became loosely territorial, king represented by king’s reeve to ensure the following of Folcright.

Shire, a large administrative area overseen by the king’s sheriff. Contained many hundreds.

Borough, a town chartered by the king. Equivalent to a hundred. Trial by ordeal

The Norman Conquest Mostly

Retained Anglo-Saxon court organization.

Added ecclesiastical courts (wills, marriage)

Added ordeal of battle

Reorganized land tenure on feudal lines.

Doomsday Book, set precedent for traveling representatives of the king settling disputes.

Henry II Sent

judges on Eyre.

Made writs (written orders) returnable, originating court cases.

An Overview of the Medieval English Legal System
Lady Lette de Cherselawe: marthakearsley@gmail.com

Introduced Juries of presentment (Grand Juries), and jury trial as alternative to battle in land disputes (juries local men expected to know the truth)

Records of court pleadings and judgements begin to be kept

Pleading used to find 'issue', single yes or no question to be answered

Used courts to clean up mess left by Civil war between Stephen and Matilda

13th Century

Parliament begins making and recording statutes

Use of juries in criminal trial becomes standard after pope bans ordeal

Jury and battle remain alternative method of trial of civil matters

Court of Common Pleas and King's Court established in Westminster

Proliferation of types of writs

Appearance of attorneys, and natatores, natatores organized by the end of the century

No legal representation for accused in criminal trial

Eryes replaced by judicial circuits

14th C

Elite natatores organized into Serjeants at Law (monopoly in Common Pleas)

By Mid Century Jugdes of Central Courts almost all from Serjeants

Legal Education begins, Apprentices study case law, and compendia of writs, watch pleadings in court.

An Overview of the Medieval English Legal System
Lady Lette de Cherselawe: marthakearsley@gmail.com

Latter half of the century the King's Court starts taking business away from
Common Pleas

Court of Chancery established mid century

15thC

Apprentices and legal education organizing into "Inns"

Common Law system "fossilizes", no writ, no remedy

Written pleadings exchanged

Corruption Common, Judges, Juries Partisan

Rise of the Court of Chancery, Equity Court

Last recorded trial by battle 1485

War of the Roses, much upheaval

15thC illuminations of Royal courts (1st known depiction):

<https://www.innertemplelibrary.org.uk/collections/manuscriptcollection/four-illuminated-manuscripts/>

16thC/ Tudors

Henry VII establishes Star Chamber as ultimate Equity Court

Star Chamber can imprison people and confiscate property

Uses courts to settle scores from the War of the Roses and raise money Henry

VIII came to throne promising to reform courts, and prosecute bad ministers

An Overview of the Medieval English Legal System
Lady Lette de Cherselawe: marthakearsley@gmail.com

Uses Star Chamber to do so, quickly reneges

Cardinal Wolsey uses equity courts arbitrarily (Habeas Corpus)

By Elizabeth's time Chancery overwhelmed slow and expensive

She uses Star Chamber powers against Catholics

Bibliography

Baker, J H: *The Order of Serjeants at Law*; Selden Society, London, 1984

Baker, J H: *An Introduction to English Legal History, 2nd Ed.*; Butterworths and Co., London, 1976

Brand, Paul: *The Origins of the English Legal Profession*, Blackwell Publishers, Oxford, 1992

Clanchy, M T : *From Memory to Written Record: England 1066-1307*; Wiley-Blackwell, Chichester West Sussex, 2013

Harding, A, *The Law Courts of Medieval England*, George Allen & Unwin , Ltd.; London, 1973

Maitland, FW, Chaytor, A H and Whittaker, W J (Eds): *The Forms of Action at Common Law: A Course of Lectures by F W Maitland*, Cambridge University Press, Cambridge, 1948

Milsom, S F C: *Historical Foundations of the Common Law*; Butterworths and Co., London, 1969

An Overview of the Medieval English Legal System
Lady Lette de Cherselawe: marthakearsley@gmail.com

Musson, Anthony: *Medieval Law in Context: The Growth of Legal Consciousness from Magna Carta to the Peasants' Revolt*; Manchester University Press, Manchester, 2001

Potter, Harry: *Law, Liberty and the Constitution: A Brief History of the Common Law*; The Boydell Press, Woodbridge Suffolk, 2015