

# **Sources of Anglo-american law**

# Anglo – american law

- Both systems are similar
- The system was created in England
- It spread to America during the colonial times
- The main source of law in both countries is The Common Law
- Other similar features are trial by jury and system of judicial precedents
- In both systems, Supremacy of the law is one of the main characteristics

# Sources of England law

- Common law = system of legal customs
  - It was formed in the 12th century in England
  - The King was the main judge
  - Until the 19th century it was a privilege to ask the king's court for help in any case
  - There had to be a "writ" (name of privilege) which allowed the problem to be solved by the king
  - Until 1832 there were only 76 writs, so only 76 types of problems could be solved by a court
  - It was not enough, so the precedential system was invented

# Sources of England law

## - Judicial precedent

- The main source of law in England
- *If the court of higher level resolves a case, the same resolution has to be applied in every similar case after that*
- This duty was called "stare decisis"
- Nowadays there are two kinds of precedent: strict (fixed) and free
- In the case of the strict precedent a judge has to decide in absolutely the same way as the precedent says, and it is not important that he can think it is not just
- In case of free precedent he can partly change the resolution

- written precedents we can find in  
collections e.g. Law reports and Law of England

# Source of England law

## - Statute law

- Historically it was a group of king's and later government's decisions and rules
- These rules were written and it creates a collection of prescribed texts and statutes
- Nowadays, this source of law is mainly used for civil law

# Sources of American law

- Judicial resolutions (precedents)
- Lex scripta (written law) – it has a bigger power and usage in the USA than in England. The Constitution of the USA is the most powerful.
- Restatement of the law (a collection of many common laws and customs). This collection is not formal, but it is very authoritative.
- Other collections and files of law, precedents and rules

# Principle of the “Supremacy of the law”

- It means that nobody is above the law
- This principle was functional even in the Middle-ages, when the king also could be the subject in any case
- Nowadays, it is used on governmental agencies and their acts



# Scotland

- Law system is a combination of English system and Continental system
- Scottish law was influenced by German and Roman law traditions

Thank you for your attention! 😊