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Individual liberty and state effectiveness in industrializing Britain: The role of war, politics, and law*

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Abstract

We examine the determinants of individual liberty and state effectiveness in industrializing Britain, analyzing both outcomes jointly within a unified empirical framework. Drawing on 67,453 reports of cases heard in the English law courts between 1765 and 1865, we use large language models (LLMs) to construct case-level measures of judicial orientation toward individual liberty and state effectiveness. We then relate these measures to war, partisan control of government, their interaction, and salient case characteristics. Both wartime conditions and Tory governments—and especially their conjunction—shift legal emphasis toward state effectiveness and away from individual liberty. Strikingly, neither common-law nor de jure judicial independence systematically promotes individual liberty, contrary to conventional views of the two pillars of English legal institutions. Appeals from India lead to an elevated emphasis on individual liberty, unlike cases involving the state as a litigant or other cases originating outside Britain. Methodologically, our analysis demonstrates the power of LLMs to extract nuanced institutional data from historical corpora.

Keywords: individual liberty, state effectiveness, large language models, industrializing Britain, war, politics, law

JEL Classifications: N43, H11, P16, K00, F52, C55

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"In all governments, there is a perpetual intestine struggle, open or secret, between authority and liberty; and neither of them can ever absolutely prevail in the contest."

David Hume, Essays, Moral and Political, 1741-1742.

1. Introduction

In liberal democracies, a fundamental political tension lies in the balance between the power of the state to intervene to supply collective goods and the liberty of the individual from interference by the state. This tension has been at the center of centuries of political philosophy, from Hobbes and Locke to Nozick and Rawls. There is now a large empirical literature examining the determinants of individual liberty and state effectiveness. Following Tilly (1990), one strain of that literature emphasizes the incentive that external conflict provides for the construction of fiscal and administrative capacity (e.g., Dincecco 2011; Besley and Persson 2011). At the same time, scholars have argued that war and perceived threats weaken liberal constraints, expanding executive discretion and curtailing civil rights (Stone 2004; Ralston and Krebs 2018). A largely separate strand of research emphasizes the effect of political ideology on liberty or on the structure of state activities (Poe et al. 1999; Potrafke 2017).

There are several notable gaps in this broad literature. First, examination of individual liberty and state effectiveness is not covered within a unified empirical framework. This means the general absence of systematic empirical analyses assessing whether individual liberty and state effectiveness conflict with one another or can instead be complements.[1] Second, the role of war and partisanship are the focus of separate studies.[2] In particular the implications of the interaction of war and party politics for individual liberty and state effectiveness has received little attention. Third, the literature very rarely focuses on the core elements of institutions themselves, instead using outcomes, such as tax collections, or synthetic indicators, such as a human rights index, which can reflect much besides institutions.[3] We address all of these gaps in a historical context in which the modern state was forged.

We examine the determinants of both individual liberty and state effectiveness in Britain between 1765 and 1865. This setting is the canonical case for two of the most consequential transformations in modern political history: the solidification of liberal institutions protecting individual rights and the ongoing construction of a state capable of projecting power on a global scale. The period covers the consolidation of the fiscal-military state (Brewer 1989), sustained interstate conflict (Tilly 1990; Dincecco 2011), and the gradual crystallization of modern party organization (Langford 1992; Turner 1999; Hilton 2008). During the late 18th and early 19th centuries, the first century of the industrial era, the tension between liberty and state power was

[1] One exception is Henriques et al. (2026), which constructs indicators for fiscal capacity and executive constraints for eight states in early modern Europe. When examining the details of their coding of the indicators, it is easy to understand the profound difficulties of directly measuring institutions in a cross-country setting.

[2] In some studies, one is used as a control while the focus is on the other.

[3] Exceptions involve a focus on highly specific institutions, for example, Scheve and Stasavage (2012) on inheritance taxes.

particularly sharp in Britain. Industrialization increased the demands for infrastructure, urban governance, public health, and regulation, which required new revenue sources and state intervention. Critics across the political spectrum saw liberty and property rights eroding (Hilton 2008).

We ask whether, and how, external conflict and the partisan hue of government shaped the law relevant to liberty and the exercise of state power. Rather than viewing liberty and effectiveness as inherently in tension, as in Hayek (1960), for example, or complementary, as in North and Weingast (1989) or Besley and Persson (2011), we treat their relative development as an empirical question. We characterize the evolution of the balance between these two institutional features. We explore how war and partisanship each independently influences the law on liberty and state effectiveness. And we investigate whether the interaction between war and partisanship amplifies or attenuates the individual effects.

To answer these questions, we construct new measures of law's emphasis on individual liberty and state effectiveness using 67,453 case reports from the English Reports (Renton, 1900-1932). These cover the decisions of Britain's superior courts from the onset of the Industrial Revolution to the reorganization of the judiciary (Baker 2019; Veeder 1901). Individual liberty encompasses personal security, political participation, and property rights, drawing on traditions associated with Locke (1689), Blackstone (1765-69), and Mill (1859), and linked in modern political economy to secure property rights (North 1990; Acemoglu, Johnson, and Robinson 2001). State effectiveness refers to fiscal extraction, administrative organization, and regulatory capacity, consistent with Weber's (1922) conception of rational-legal bureaucracy and modern theories of state capacity (Besley and Persson 2009, 2011; Dincecco 2011).

Our measures are derived from judicial statements of the law itself rather than from synthetic indices or downstream outcomes such as tax revenue or observed repression. They reflect a time when caselaw was still enormously important in determining the landscape of rights and government powers.[4] For this reason and because of the centrality of the courts in the British constitution, we argue below that our measures can be viewed as capturing central aspects of an overall perspective on British law rather than merely reflecting caselaw alone. But the validity of our results does not hinge on this judgment. Skeptical readers can view our results as reflecting only caselaw, and not a broader perspective on law.

We use large language models (LLMs) to extract measures from historical legal texts. Using in-context learning (Brown et al. 2020; Wei et al. 2023; Dong et al. 2024), explicit conceptual definitions, and systematic scoring rubrics, we generate case-level measures of the degree to which courts endorse or constrain liberty and, separately, support or limit state effectiveness. We show that this approach, using detailed texts as inputs, produces measures that capture fundamental institutional features. The data reveal that state effectiveness and individual liberty received equal emphasis in the last half of the 18th century but liberty was emphasized more in the first half of the

[4] Hoppit (1997, 2017, 2018) has emphasized the growing importance of statute in the 18th century. We discuss below how the caselaw record reflects legislation.

19th century. Moreover, the negative within-case correlation between our individual liberty and state effectiveness scores lends empirical support to the Hobbesian reading of liberty and state capacity entailing a trade-off.

We then relate these measures to two core explanatory variables: war and partisan control of government. War captures years of major interstate conflict, rebellion, or episodes of significant state violence, consistent with accounts of crisis-driven state expansion and emergency governance (Peacock and Wiseman 1961; Higgs 1987; Gross and Ní Aoláin 2006). Partisanship is measured by whether a Tory (later, a Conservative) prime minister held office, reflecting ideological and coalitional differences between Tories and Whigs (later, Liberals) regarding executive power, reducing unequal rights, and the paternalistic cast of the state (Dicey 1915; Hoppen 1998; Hilton 2008). We estimate models that include both variables and their interaction, alongside court fixed effects and detailed case characteristics that include the subject matter of each case derived from topic modeling (Grajzl and Murrell 2024). This unified framework allows us to assess the independent and joint effects of war and partisanship on both liberty and effectiveness using consistent data and methods.

Three findings stand out. First, war shifts law's emphasis toward state effectiveness and away from individual liberty, consistent with theories of security-driven state building (Tilly 1990; Dincecco 2011) and crisis-induced controls (Ralston and Krebs 2018). Second, Tory governments similarly tilt the emphasis toward state effectiveness and away from liberty, in line with historical characterizations of Tory attachment to state authority and the fiscal-military state, plus resistance to liberalizing reforms (Hoppen 1998; Hilton 2008; Langford 1992). Third, the interaction between war and Tory government produces the largest effects: moving from peace under the Whigs to war under the Tories is associated with a pronounced reorientation of law toward state effectiveness and away from liberty. Thus, war and partisanship operate as roughly symmetric drivers, and their conjunction amplifies their individual effects.

Additional findings refine this picture. When the Crown appears as litigant, courts strongly favor state effectiveness over liberty, echoing perennial concerns about executive advantage in litigation. Cases on appeal from Ireland and India exhibit markedly different patterns; strikingly, Indian cases emphasize individual liberty concerns. Finally, contrary to familiar narratives linking common-law systems and judicial independence to stronger protections of liberty (La Porta et al. 2004; North and Weingast 1989), we find no evidence that application of the common law or formal judicial independence is associated with greater emphasis on individual liberty.

This paper contributes to several literatures. First, it advances scholarship on the political economy of state effectiveness and individual liberty by analyzing both outcomes jointly within a single empirical framework. Existing work typically examines fiscal capacity (Besley and Persson 2009; Dincecco 2011), property-rights institutions (Acemoglu, Johnson, and Robinson 2001), or civil liberties (Stone 2004; Poe et al. 1999) in isolation.[5] By characterizing the legal landscape

[5] A partial exception is Koyama (2023) who focuses on the related tradeoff between public health and individual freedom in the specific context of epidemic disease.

directly and evaluating liberty and effectiveness consistently using the same corpus, we illuminate how war-induced political forces reallocate emphasis between these two core features of institutions.

Second, the paper contributes to research on war and state formation (e.g., Becker et al. 2025; Dincecco 2011) by demonstrating that conflict has a positive effect on the law pertinent to state effectiveness and a negative effect on rights embodied in the law, with the former the stronger effect. Third, it speaks to scholarship on partisanship and institutional development. The literature on credible commitment (North and Weingast 1989) and legal origins (La Porta et al. 1998, 2004) emphasizes institutional arrangements as determinants of liberties and state capacity, but rarely examines the role of the party. We show that Tory rule is associated with a suppression of individual liberties that appears in case reports, while there is a weaker effect on the law relevant to state effectiveness during Tory rule.

Fourth, this study is the first to investigate individual liberty, state effectiveness, war and partisanship within a unified framework. We show that, if one views liberty and state effectiveness as opposites, the net effect of both war and Tory government is emphasis on the state rather than the individual. The largest effects result from the move from Whig government in times of peace to Tory government in times of war. Liberty declines and state power rises, both statistically significantly. It is the combination of war and Tory government that most powerfully reshapes the institutional balance.

Finally, we show a feasible implementation of LLMs to produce institutional data from historical legal texts at scale. Usually this would require either the fine tuning of an LLM (Stiglitz and Thalken 2024) or employing an army of trained research assistants (Prat et al. 2026), or both. Our test case of the use of LLMs is a demanding one because the texts we use are challenging; understanding requires familiarity with the parsing of long sentences, arcane language, and old legal terms. Each case report is a single long essay, often lacking a coherent structure, with no sections to differentiate discussion of precedential cases, lower court rulings, and litigant arguments that were rejected in the final ruling. We show that LLMs can handle such complications, offering a template for extracting institutional data from historical legal corpora more broadly.

The remainder of the paper proceeds as follows. Section 2 defines the core concepts, provides historical background on the courts, politics, and war, and states the empirical questions that we address. Section 3 describes the LLM-based strategy for measuring individual liberty and state effectiveness. Section 4 describes the data. Section 5 presents the empirical results, including the effects of war, partisanship, and their interaction, along with additional analyses. Section 6 concludes.

2. Concepts, facts, and empirical questions

In this section, we discuss the concepts that underpin our dependent variables, individual liberty and state effectiveness. Then we provide background information on the legal system, which provides our data, and on war and politics, which are our main explanatory variables. Lastly, we formulate the empirical questions that our paper addresses.

2.1. Individual liberty (IL) and state effectiveness (SE)

Both individual liberty and state effectiveness have deep intellectual roots and have been the subject of sustained empirical and theoretical inquiry. Individual liberty refers to the rights that shield individuals from arbitrary interference by the state or by other actors, together with the institutional structures that secure those rights. Three components are central: personal liberty, political liberty, and property rights.

Personal liberty denotes freedom from coercion in one's private life. In the early modern tradition, this idea was framed in terms of security of the person and protection against arbitrary detention or punishment. Locke grounded liberty in natural rights to life and rule by known laws rather than discretion. Blackstone's Commentaries (1765-69) included personal security as one of the absolute rights of individuals, emphasizing legal due process and the role of the courts. In the 19th century, J. S. Mill reformulated the problem in terms of the absence of coercion, whether by government or social majorities.

Political liberty concerns participation in civic and political affairs. Classical republican thought associated liberty with non-domination and active citizenship (Pettit 1997; Skinner 1998). Later liberal traditions emphasized representative government, freedom of expression, and suffrage expansion as mechanisms for holding rulers accountable. Dahl's (1971) concept of polyarchy operationalized political liberty in terms of contestation and participation. Political liberty, in this sense, is not confined to formal voting rights but includes the institutional conditions that make participation meaningful.

Property rights constitute the third pillar. Locke linked property to labor and viewed its protection as a primary end of government. Blackstone described the right of property as fundamental when exercised within the bounds of law. In modern economic theory, secure property rights are foundational for economic activity (Alchian and Demsetz 1973; Barzel 1997; North 1990). Empirical studies have associated stronger property-rights institutions with higher income levels and investment rates (Acemoglu, Johnson, and Robinson 2001; Hall and Jones 1999; La Porta et al. 1998).

Two clarifications are essential. First, individual liberty is not synonymous with the absence of government. Hobbes's Leviathan (1651) associated anarchy with insecurity. Contemporary political economy similarly emphasizes that without an organized authority capable of enforcing rules, individuals are vulnerable to predation by private actors (Olson 1993; Bates et al. 2002). Secure liberty requires protection against both public and private coercion. Second, liberty depends on institutional constraints on state power—constitutional limits, judicial review, regularized procedures—but it also requires a government capable of maintaining order under those constraints. Hayek (1960) stressed general, predictable rules as conditions of freedom; Dicey (1885) emphasized the rule of law as equality before ordinary courts. Modern scholarship on credible commitment highlights how constitutional arrangements can bind governments while enabling them to govern effectively (North and Weingast 1989; Weingast 1995).

State effectiveness refers to the state's ability to pursue collective goals through fiscal extraction, administrative implementation, and economic regulation. Fiscal effectiveness concerns the ability to raise revenue, impose non-monetary levies such as conscription, and finance public expenditures. The history of state formation emphasizes that durable political orders developed administrative and fiscal systems capable of sustained extraction (Tilly 1990). Besley and Persson (2009, 2011) showing that investment in fiscal capacity is central to development. Dincecco (2011) provides cross-country evidence linking centralized fiscal institutions to economic performance.

Bureaucratic effectiveness refers to the presence of a professional administrative apparatus capable of implementing policy in a coordinated and rule-bound manner: Weber's (1922) rational-legal bureaucracy. Evans and Rauch (1999) have shown that Weberian bureaucratic structures are associated with higher growth rates. Regulatory effectiveness concerns the ability to structure and supervise economic activity in ways that promote general prosperity while balancing competing interests. Djankov et al. (2002) have demonstrated that regulation often reflects the latter.

Two additional points clarify the way in which state effectiveness is implemented in this paper. First, to avoid overlap with individual liberty, state effectiveness excludes judicial capacity—the enforcement of individual rights and, more broadly, law and order, that is conducted by the court system.[6] The focus is instead on fiscal extraction, administrative organization, and economic regulation. Second, effectiveness is not reducible to centralization or scale. Subnational governments may possess significant fiscal or bureaucratic capacity (Ogilvie 2022). A state may have extensive powers yet lack the capacity to exercise them productively (Fukuyama 2011; Acemoglu and Robinson 2012).

Lastly, it is controversial whether individual liberty and state effectiveness are inherently in conflict. To Hobbes, Hume, Hayek, and Nozick, a stronger fiscal or regulatory authority usually threatens personal or property rights. To Madison in the Federalist 51, North and Weingast (1989), Besley and Persson (2011), and Acemoglu and Robinson (2019), state capacity can be a complement to individual liberty. In this paper, we do not take an initial stand on this point, but rather let the data speak for itself.

2.2. The importance of caselaw

Our data comes from caselaw and not statutes. In this subsection, we argue that, as a consequence, there are two ways to interpret our results.[7] A narrow way would be to view our data

[6] In this sense, our concept of state effectiveness captures a narrower dimension than the broader concept of state capacity. See Johnson and Koyama (2017) and Ogilvie (2022).

[7] In addition to the specific citations, the following description is based on Arvind and Burset (2024), Baker (2019), Blackstone (1765-1769), Brooks (1998), Dicey (1915, 1917), Elmsley (1981, 1985), Grajzl and Murrell (2025), Handler (2012), Holdsworth (1903-1966), Hoppit (1996, 2017, 2018), Lemmings (2000, 2011), Lieberman (2002), Lobban (2012), McLean (2013), selected cases in Renton (1900-1932), Sainty (1993), Turner (1999), and Yonge (1868).

as capturing increments in caselaw. A more expansive way recognizes that case reports summarize the relevant law as it exists at any time, because case reports necessarily refer to existing caselaw and statutes in reaching new determinations. Our judgment is that the more expansive interpretation is justified. That is, we view our data as tracing patterns in the commitment to individual liberty and state effectiveness that reflect the overall situation in 18th and 19th century Britain. Importantly, the validity of our results does not hinge on the choice between these two perspectives, only their interpretation.

The balance between statute and caselaw in the period 1765-1865 is contested by legal historians, but consistently points to a central judicial role. Dicey (1915: 150) famously argued that core constitutional principles, including personal liberty, emerged primarily from judicial decisions rather than from statutes. In contrast, Lemmings (2011) emphasizes a shift in the 18th century toward statutory command, especially in relation to the lower classes and local governance. However, although Parliamentary sovereignty was undisputed and the volume of legislation rose markedly after the Glorious Revolution (Hoppit 1996), most Acts were narrow, local, and reactive, with the core concerns of the executive, law and order, religion, and government, accounting for only a small share of legislation. Ministers rarely viewed systematic lawmaking as their responsibility before the 1830s, and the executive lacked the administrative capacity to displace the courts (Emsley 1985). Ambiguous statutes, strict judicial textualism, and the need to adjudicate claims of necessity, habeas corpus rights, and the liability of officials all expanded the scope of judge-made law. As Dicey (1915: 183-193) stressed, large domains such as contract and tort were overwhelmingly the product of "judicial legislation". Moreover, many of the general acts were simply statutory summaries of existing caselaw, and therefore lagged the caselaw record. Consequently, court reports frequently provide a more accurate account of law in practice—particularly regarding liberty and state power—than the statutory record alone.

The implication of the above for this paper is fundamental. Using a dataset of legal opinions can provide solid empirical evidence on the content of British law in the period under study. This is even more so because those opinions not only focus on specific cases but also provide copious legal background in the case reports. The opinions provide summaries of the legal rules derived from the older caselaw and the features of any relevant statutes in addition to a determination of the specific law pertinent to the question in contention.

2.3. Courts and judges

We now turn to more prosaic features of the court system. The structural features of that system were inherited from the Middle Ages, with no unifying organization or set of procedures.[8] Our dataset includes reports from thirteen separate courts. These ranged from the House of Lords, the supreme court of its day that considered appeals on any type of case, to the Admiralty court, a first instance court that considered only cases that from maritime matters. (A comprehensive overview of the courts is provided in Supplementary Appendix A.)

[8] Overarching systematic organization was first implemented in 1873-1875.

The exact method of appointment of judges in each of the courts varied. However, the Crown (or its agent, the current government) had ultimate control. The head of the legal system, the Lord Chancellor, was chosen by each government and was usually a member of the government. Lord Chancellors had influence over the selection of candidates to most of the courts. In addition to representing the government, they channeled the preferences of the legal profession. The Lord Chancellor also organized the hearing of cases in the ultimate appeal body, the House of Lords. All members of the House were eligible to vote, but in practice legally trained peers dominated. The principal courts that were outside the ambit dominated by the legal profession were the Ecclesiastical Courts, hearing religious, probate, and family cases. For these courts, judges were appointed by the Anglican Archbishops, as agents of the monarch who was the official head of the church.

Outside legal scholarship, perhaps the most widely misunderstood feature of the courts is the de jure independence of judges. Tenure during the lifetime of a monarch was implemented on the death of Queen Anne in 1714 following a clause of the 1701 Act of Settlement. (It was extended to the lifetime of the judge in 1761.) But this did not apply to every court. It applied to judges in King's Bench, Common Pleas, and Exchequer for our whole sample period, the Vice-Chancellor's court after 1813, and then, in 1840, the Admiralty court.[9] All other judges could be removed by the government, acting as an agent of the Crown.[10] Of course, those judges without de jure independence could have de facto independent power. For example, Parliament was not willing to over-ride the Ecclesiastical courts on the divorce of a monarch (Yonge 1868: 320-326).

Nevertheless, there is considerable evidence that even those judges specifically covered by the Act of Settlement were very much under the influence of the Crown or the government (Lemmings 2000). Appointment of judges was independent of any review by Parliament. Indeed, during 1791 to 1820, 80 percent of senior judges were MPs. Those who were not MPs could be rewarded with a place in the House of Lords. Extra bonuses could be paid to judges, while the Treasury was frequently late paying regular salaries, which would surely serve as a reminder of who the paymaster was. The Lord Chancellor was the official legal adviser to the Prime Minister, thereby being part of the executive. After 1830, when legal reform became central in government policy, there is some evidence of a weakening of the extent to which judges were informal agents of the government.

Finally, the English system is almost universally referred to as one of common-law. This is inaccurate for the period under study and for the data we analyze. The common law was the governing law in fewer than half the courts in our dataset. The court of Chancery (and its subsidiaries the Rolls and Vice Chancellors' courts) were equity courts, distinct from the common law in not having juries, having inquisitorial judges, using different procedures, and able to implement a wider set of remedies, including injunctions. The ecclesiastical, probate, and family

[9] On Vice-Chancellors and Admiralty see 53 Geo. III c. 24 (1813) and Admiralty Court Act 1840 (3 & 4 Vict. c. 65).
[10] Of course, the Crown could not remove peers from the House of Lords, but, in practice, decisions in legal cases in that body were very much influenced by the Lord Chancellor, who could be removed.

courts followed canon law. Admiralty followed civil law. Appeal courts, such as the House of Lords, used the law that was applied when the case was originally adjudicated. Until 1841, when its equity jurisdiction was transferred to Chancery, the Exchequer court applied either common law or equity, as appropriate to the case.

2.4. War

Between 1765 and 1865, Britain was engaged in a prolonged sequence of major military conflicts and experienced episodes of significant domestic unrest. Soon after the beginning of the period, the American Revolutionary War (1775-1783) began. Almost immediately thereafter, Britain was drawn into the French Revolutionary and Napoleonic Wars (1793-1815). At home, the Irish Rebellion (1798) reflected resistance to British rule.

The early nineteenth century saw further turmoil. The Peterloo Massacre (1819) and the Chartist Newport Rising (1839) underscored the scale of popular unrest. Mid-century, Britain took the field in the Crimean War (1853-1856), a major European conflict pitting Britain against Russia. Soon thereafter, the Indian Rebellion (1857-1858) led to the dissolution of East India Company rule and the establishment of direct Crown governance in India. Over the period covered by our data, these external wars, imperial crises, and recurrent episodes of domestic unrest constituted defining moments of violent conflict that shaped British military, administrative, and social development.

2.4. Party politics

Our century, 1765-1865, began with two identifiable political groupings, Tories and Whigs.[11] These were based on acquaintanceship, patronage, and policy preferences, but cannot be equated with modern political parties. Organization was informal and often weak. 1760 saw the accession of a newly interventionist monarch, George III, who was willing to disregard Parliamentary majorities in constructing his own cabinet. Indeed, it was not until the 19th century that it began to be common practice that the departure of a Prime Minister was necessarily accompanied by the resignation of the whole cabinet.

Gradually, the political groupings became more solidified. Electoral management increased in the 1780s. By the beginning of the 19th century, the terms Tory and Whig were being used to identify candidates at elections. Governments that included both Tories and Whigs became less common. Thus, our century (1765-1865) ended with much tighter party organization and discipline in the two successor parties, the Conservatives and the Liberals. The role of the monarch in politics gradually receded, but was nevertheless still crucial at times of crisis, such as in the passage of the Great Reform Act of 1832. For continuity, we will use the party names that were used, often quite informally, throughout the period under consideration: Tory and Whig.

[11] The following is based on Bogart and Richardson (2009), Brewer (1989), Dicey (1915, 1917), Emsley (1981, 1985), Handler (2012), Hilton (2008), Hoppen (1998), Hoppit (1996, 2017, 2018), Langford (1992), Lemmings (2000, 2011), Lieberman (2002), Lobban (2012), Roberts (2020), Tilly (1990), Turner (1999), and Yonge (1868).

Although political programs changed over time and with particular leaders, it is possible to identify several themes that provide rough characterizations of the relative positions of the two parties. Tories viewed themselves as defenders of an existing constitutional order, within which the Crown still had prerogative powers. They were supporters of landowners, the universities, and of the corporations that ruled the older cities. Their commitment to the Anglican Church entailed restrictions on the rights of Protestant dissenters and Catholics. They were committed to the existing aristocratic constitutional order and were resistant to deep change. This resistance manifested itself in a willingness to defend the old order with anti-liberty measures, for example, when faced by popular radicalism associated with the French Revolution. The defense of the old order extended to events in the colonies (e.g. North America) and the rise of liberal/constitutional movements in Europe (e.g., 1848), resulting in greater Tory support for the fiscal-military state and for war. The Tories' deep attachment to the existing social order and older property interests led to reconfigured party alignments in the 1840s. Then, the distinction between Conservative and Liberals crystallized over the general issue of trade policy (and the specific instance of the Corn Laws and the relief of the Irish famine).

The Whigs were inheritors of a more radical view of the Glorious Revolution, emphasizing a stronger reading of parliamentary authority and a narrower reading of Crown prerogative. Their natural allies were those who had less satisfaction with the existing order. These included dissenters from the Anglican Church who faced disabilities, those generally in favor of reform, including the Benthamites, and later the elites in the newly growing cities, who were in favor of parliamentary reform and free trade. The 19th century emphasis on free trade was one manifestation of the alignment of the Whigs with laisser-faire policies, in contrast to a stronger hue of paternalism within Tory positions. The rise of political radicalism outside Parliament was as likely to push the Whigs into supporting Parliamentary reform as into repression, with the Whigs being consistently more favorable to expansion of the franchise. Whig alliances naturally meant more inclination to oppose existing laws that gave Anglican communicants greater rights than dissenters. The Whigs were earlier and more consistent supporters of Catholic emancipation, a policy that split the Tories, in part because of the opposition of the Crown. In the 19th century, measures to improve the political rights of the Irish became central to Whig identity. The Whigs led on abolishing the slave trade (1807) and then emancipation (1833). The same general predispositions led to more sympathy with opponents of the old order abroad, which made them less bellicist than the Tories.

These broad characterizations must be treated with caution. Rule by either party was rule by the upper classes of society, a continuing aristocracy. Exceptions at specific times and for specific politicians could certainly be found for all the political stances described above.[12] Nevertheless, these broad characterizations do capture the essential differences between Tories and Whigs when viewed from the perspective of 1765-1865 as a whole.

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[12] For example, only a minority of Whigs opposed the restrictions on civil liberties enacted during the Napoleonic wars; Pitt, a Tory, was an advocate of Parliamentary reform early in his career. Palmerston the Whig Prime Minister (1855-1858, 1859-1865) was as much a conservative as a liberal.

2.5. Empirical questions

The information in the preceding subsections motivates a set of empirical questions concerning the extent to which law responds to factors such as war and politics. From a legal-theoretical perspective, one might expect little systematic response. If legal development is largely autonomous—governed by doctrine, precedent, and professional norms rather than by forces external to the legal system (Tomlins 2007; George 1999; Lempert 1988)—judicial orientations toward individual liberty and state effectiveness should be largely insulated from war-related or political shocks.

War, however, may generate pressures that strain judicial insulation. The tension between security and liberty is most pronounced during crises. Violent conflict affects governance along multiple margins. First, war can spur the accumulation of fiscal and administrative capacity, fostering the development of a centralized, powerful state (Brewer 1989; Tilly 1990; Dincecco 2011; Dincecco and Prado 2012; Besley and Persson 2009, 2011). Second, civil rights and liberal constraints are often curtailed as emergency governance expands executive discretion, with legislatures delegating powers and courts frequently deferring to emergency measures (Stone 2004; Hetherington and Suhay 2011; Ralston and Krebs 2018).[13] Indeed, between 1765 and 1865 in Britain, courts typically allowed executive and legislative emergency actions to proceed when justified by necessity, but retained ex post authority to determine whether officials had exceeded lawful bounds (Gross and Ní Aoláin 2006). Whether courts accommodated, resisted, or otherwise channeled these pressures through existing legal doctrines thus remains an empirical question.

Party politics leads to a parallel set of relationships. Broad differences between Tory and Whig governments in their views of prerogative, reform, and state authority (see Section 2.4) suggest that shifts in political control could shape the environment in which legal disputes arise and are adjudicated. These effects may have occurred not through overt partisan pressure on judges, but by influencing the types of legal claims and arguments brought before the courts. In combination with war, particular political configurations may have amplified or mitigated pressures on courts, meaning that judicial responses to conflict could vary across political contexts. This raises a key empirical question concerning the extent to which observed changes in judicial orientations reflect the pressures of war, the surrounding political environment, or the interaction of the two.

Finally, judicial independence and the legal tradition could have theoretically ambiguous effects on judicial orientations. Independence under the Act of Settlement relieved the immediate threat of removal, but informal pressures remained. Even if judges could act freely, this discretion could—in principle—be used to advance or hinder a particular set of ideas (see Murrell 2021). Similarly, common-law courts and non-common-law courts (equity, ecclesiastical, Admiralty) operated under different procedures and remedies, which might imply different scope for promoting individual liberty and state effectiveness. Together, these features imply that the effect

[13] Short-run effects may then persist via displacement (Peacock and Wiseman 1961), ratchet effects (Higgs 1987), and broader institutional persistence (Acemoglu, Johnson, and Robinson 2001).

of institutional independence and legal tradition on judicial behavior was theoretically ambiguous and in need of empirical inquiry.

3. Constructing measures of judicial orientation toward IL and SE

3.1. The corpus

Our corpus is a digitized edition of the English Reports (Renton, 1900-1932; hereafter ER), which compile cases from the superior English courts until 1865. Reporters aimed to record deliberations on novel or unsettled points of law (Grajzl and Murrell 2021). Hence, the ER is neither a comprehensive nor a random record of all cases. However, the ER includes the key decisions that fundamentally shaped the unwritten constitution and private law. The ER thus provides an unparalleled record of English jurisprudence in the first century of industrialization. Although the highest courts were located in Westminster, the nisi prius and assize systems brought legally significant disputes from across the country before the highest courts (Baker 2019). For centuries, the cases that were included in the ER have been a foundational resource for precedent and for legal education, with no other corpus matching its historical scope or depth.

For this study, we use 67,453 case reports on cases heard between 1765 and 1865. The year 1765 approximately marks the beginning of the Industrial Revolution as well as a shift toward more comprehensive law reporting (Veeder 1901; Winfield 1925; Baker 2019). The year 1865 serves as the endpoint because it is the last year in which the English Reports contains sufficient reports for reliable data analysis. Additionally, in that year, the foundations of English law reporting changed fundamentally. By the early 1870s, England also undertook a comprehensive reorganization of its higher courts. In addition to the content of each report, we have metadata on the adjudicating court, the year of the decision, the English Reports volume number, the case name, and the length in words.

3.2. Leveraging the LLMs: the models

We considered the performance of three models.[14] GPT-4o (henceforth 4o) was OpenAI's flagship multimodal large language model at the time that this study began. GPT-oss (henceforth oss) is, at the time of writing, OpenAI's state-of-the-art open-weights model, but with performance only at the level of 4o-mini. On its release, DeepSeek R1 (henceforth ds) was distinctive in incorporating reasoning processes as a central input into the formulation of its responses to prompts.[15] As we will see below, the performance of these models differs considerably on the tasks that we present.

[14] Before producing data on all the cases, we also considered other models. Despite repeated testing of many prompts, Llama 4 Scout produced responses where the reasoning was logically and conceptually unacceptable. Use of Claude Opus and Sonnet (both 3 and 4) was infeasible due to cost considerations.

[15] We accessed DeepSeek R1 and GPT-oss through the Jetstream2 LLM inference service and computing environment at Indiana University (Hancock et al. 2021; Boerner et al. 2023).

3.3. In-context learning

To ensure that the LLM follows instructions, for every case report, we separate the LLM's analysis of individual liberty and state effectiveness.[16] For each, we first engage the LLM with in-context learning (ICL)—a computationally and data-efficient alternative to the resource-intensive fine-tuning of models using bespoke datasets. In ICL, the model is guided to perform a novel task by being conditioned on a set of exemplars provided in the prompt, without any updating of its internal parameters. This allows researchers to flexibly adapt a powerful pre-trained model to specialized domains, such as legal reasoning, while avoiding the computational and data-collection costs associated with fine-tuning (Brown et al. 2020; Dong et al. 2024; Wei et al. 2023). Recent work shows that ICL can achieve performance comparable to, and sometimes exceeding, that of fine-tuned models across diverse reasoning tasks, making it particularly well-suited for conceptually rich interpretive applications like ours (Min et al. 2022; Liu et al. 2023).

As an initial step in the model's conceptual grounding, we begin the prompt provided to the LLM with a broad definition of the pertinent concept, accompanied by clarifying qualifications. For example, we made it clear that individual liberty is not synonymous with the absence of government. Moreover, our notion of state effectiveness deliberately excludes the capacity to adjudicate laws: this is the province of the judiciary, which can wield such powers to restrain government (i.e., enhance individual liberty). Then, we supply the model with a curated selection of short summaries of the works of influential thinkers who grappled with the concepts of individual liberty and state effectiveness between the 16th and 19th centuries (e.g., Hobbes, Locke, Bentham). Twelve summaries were provided for each of the concepts. Supplementary Appendix B provides the complete prompts passed to the LLM.

3.4. Scoring prompts

The prompt closes by asking the LLM to analyze a single law report, provide its reasoning and end its message with a single numeric score between 0.0 and 10.0 that captures the model's assessment of the degree to which the court's decision endorses or undermines individual liberty (or, in a completely separate enquiry, state effectiveness). We provide the LLM with explicit and replicable scoring guidelines. Because LLMs often struggle to follow complex, multi-step instructions (Fujisawa et al. 2024), we use a single integrated prompt along with a transparent scoring rubric that systematically captures the range of possible judicial orientations toward the pertinent concept.

Figure 1 illustrates the scoring rubric. The rubric anchors its extremes in cases where a court's reasoning either strongly promotes or clearly undermines the relevant idea. Intermediate scores are reserved for cases in which the court's reasoning is either tangential to the concept or internally ambiguous—that is, when certain aspects of the judgment advance the idea while others potentially detract from it. For each law report, the LLM is required to articulate its reasoning in support of

[16] Here we summarize the end-result of much experimentation with different styles and lengths of prompts using guidance from the new literature on prompt engineering and close inspection of the output produced by the LLMs.

the assigned score, thereby ensuring interpretability and facilitating systematic validation of its assessments. We found that asking for reasoning before asking for the score was an essential element in the production of valid responses.

Importantly, in processing the law reports, we ensure that the LLM operates under a uniform and fully controlled information set for each observation (i.e., case report). Prior to evaluating a given report, the model re-engages with the in-context learning examples and reviews the scoring guidelines to ensure conceptual consistency and stable interpretive framing. At the same time, the LLM is deliberately prevented from accessing any record of its prior evaluations, thereby eliminating information leakage across reports. This design guarantees that each assessment is conducted independently, under uniform informational conditions, and can be replicated across iterations.

3.5. Examining LLM output and choosing among models

After eliciting each model's (oss, ds, and 4o) assessments of the court's orientation toward individual liberty (IL) and state effectiveness (SE), we examined the integrity of the output, both scores and reasoning. We first read a specific set of cases and formulated our own reasoning, and then examined model output in comparison. We reviewed results for 50 different cases, half on individual liberty and half on state effectiveness. We selected the specific cases by first identifying all cases in which two models scored at one extreme while the other model scored at the opposite extreme.[17] For each of the two concepts, we then selected the 25 cases with the highest variance (i.e., disagreement) among the three scores.

For IL, we found that oss was factually wrong in 21 of the 25 cases, while ds and 4o were factually wrong in 1 case each.[18] (The most common manifestation of factual incorrectness for oss was misunderstanding the case outcome.) In three cases, the scoring hinged on judgement calls (e.g., when freedom of contract conflicted with protection of the rights of a wife). For SE, we found that oss was factually wrong in 21 of the 25 cases, while ds was factually wrong in one case and 4o was correct in all 25. In three cases, the scoring hinged on judgement calls (e.g., when deciding between two state agencies). These results immediately led to the dropping of oss's results from our subsequent analysis. This is a significant finding. It implies that the quality of the models on highly specific tasks varies considerably. Given that oss is, at the time of writing, OpenAI's most powerful open-weight model, this finding implies that, at least for legal history, significant retraining would have to be implemented to reach satisfactory results, and even that would have uncertain outcomes. In contrast, the results from 4o and ds passed quality standards considering the difficulty of reading these abstruse and disorganized reports. Supplementary Appendix C provides an example of the complete output produced by the two models: the landmark case of Entick v. Carrington.

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[17] The scores were first normalized to mean zero and standard deviation equal to one, to ensure that adventitious differences in the mean and variances of model scores did not affect the selection of cases to study.

[18] In one case, both oss and ds were wrong, leaving the 3 cases where the stated reasoning of the models was correct and the differences in scores resulted from different value judgments.

3.6. Case report-level measures of orientation toward IL and SE

For IL and SE separately and for each case report individually, we compute the mean of the 4o and ds scores. Averaging the scores on the two models for each report mitigates potential systematic biases arising from differences in model architecture and training corpora, which might have distinct underlying orientations toward IL and SE. For each law report on case i adjudicated in court c in year t, we denote the resultant scores for individual liberty by IL_{ict} and state effectiveness by SE_{ict}. Figure 2 shows the distribution of cases by the corresponding scores. In the empirical exercises, we also examine results for $ILvSE_{ict} = IL_{ict} - SE_{ict}$.[19] Table 1 provides the summary statistics for the resulting variables, as well as all other variables used in our analysis (see Section 4).

3.7. IL and SE over time

Figure 3 shows the evolution of the yearly value of IL and SE scores. Each yearly value is computed as an average of the pertinent scores for cases heard in the given year, weighted by case report length (number of words). On average, courts stressed individual liberty over state effectiveness throughout the time period under consideration. Investigation of unknown structural breaks (Bai and Perron 1998, 2003a, 2003b) reveals that emphasis on IL increased in 1823 and again in 1851, while the emphasis on SE decreased after 1824. Interestingly, the emphasis on individual liberty over state effectiveness became even more important after criticism of the court system came to the center of British politics in the 1820s and beyond. Indeed, there is evidence that the de facto independence of judges increased at this time (Lemmings 2000).

4. Key explanatory and control variables

4.1. War and party politics

We define a dummy variable, W_t, equal to one for years in which England experienced major external wars, armed rebellions, or episodes of significant state violence. In particular, $W_t = 1$ for the years 1775-1783 (American Revolutionary War), 1793-1815 (French Revolutionary and Napoleonic Wars), 1798 (Irish Rebellion), 1819 (Peterloo Massacre), 1839 (Chartist Newport Rising), 1853-1856 (Crimean War), and 1857-1858 (Indian Rebellion).

We define a dummy variable, C_t, equal to one for years in which a Tory (or Conservative) Prime Minister held office in England and 0 otherwise. Specifically, $C_t = 1$ for the years 1770-1781 (North), 1784-1805 (Pitt the Younger), 1807-1830 (Portland, Perceval, Liverpool, Canning, Goderich, Wellington), 1842-1845 (Peel), 1852 (Peel), and 1858 (Derby).

4.2. Courts

For each case report in the English Reports, we identify the adjudicating court and define the corresponding court dummy. We use the dataset of the English Reports digitized by Schmidt (2016). For some courts, particularly the Ecclesiastical courts, the categorization in the English

[19] The correlation coefficient between IL_{ict} and SE_{ict} in our sample is -0.24 (p < 0.000).

Reports is not sufficient to clearly differentiate between forums covering very different aspects of the law (for example, Admiralty is grouped with Probate). In those cases, we used the systematic structure of the 178 individual volumes of the English Reports to disaggregate the court classification. Full details are provided in Supplementary Appendix A.

4.3. Other salient case characteristics

We characterize the legal cases in multiple ways (see Supplementary Appendix E for details on construction of the corresponding variables). First, we encode whether the state was involved in the case, differentiating between two aspects of the state's role. One dummy variable indicates if the state is either the plaintiff in a case (or the appellant in an appeal). Another indicates whether the state is either the defendant in a case (or the respondent in an appeal). Since the Crown, as the font of justice, could not be sued except under special circumstances with the Crown's permission, only a small number of cases has the state as defendant.

Second, we define a dummy for whether a case is from India. Cases on appeal from Indian courts were numerous during the time period under study. India stood apart from other British colonies both in scale and, until 1858, its direct administration by the East India Company rather than the Crown. The moral hazard issues created by scale, distance, and form of administration would have provided circumstances surrounding Indian cases that were very different from all others.

Third, we define dummies for whether a case is a criminal case, from Ireland, and from colonies other than India. To construct these dummies, we classify cases using the word embedding techniques developed by Gennaro and Ash (2022) and applied in a legal-historical context by Grajzl and Murrell (2025). Thes techniques rely on the similarity of a word embedding of a case and the word embedding of a set of terms used frequently in the context of the cases being characterized (see Supplementary Appendix D).

4.4. Common-law versus non-common-law

We distinguish between cases that fall under the common law and those that do not. The latter are primarily equity cases. The Exchequer (until 1840), the Privy Council, and the House of Lords adjudicated both common-law and non-common-law cases. In order to create an indicator variable for common-law cases in these courts, we implement a supervised text-classification approach. Using Common Pleas (common law) and Chancery (non-common-law) cases as labeled training data, we preprocess case reports to remove court-identifying language and then represent the text using text frequency-inverse document frequency (TF-IDF) features based on unigrams and bigrams. We estimate a regularized logistic regression model on this training sample and apply it to cases in each of Exchequer (until 1840), Privy Council, and House of Lords. Predicted classifications corresponding to Common Pleas are coded as common law, and those corresponding to Chancery as non-common-law. See Supplementary Appendix D for additional details.

4.5. Legal themes

Even conditional on the adjudicating court, the substantive mix of cases heard by a court may shift over time in ways that affect the degree to which the legal and factual features of the case are such that judges and juries must consider issues of individual liberty or state effectiveness. Such shifts may be correlated with broader political conditions, including war or changes in government, and thus confound the relationship of interest.

To account for heterogeneity in legal and factual content across cases, we therefore include as case-level controls the legal theme proportions. Our measures are drawn from Grajzl and Murrell (2024), who estimate a topic model on the full corpus of case reports used in our analysis. The topic model estimates the share of each case report devoted to each topic. The resulting 105 topics are then aggregated into 13 themes.[20]

5. Empirical approach and results

5.1. The empirical model

Drawing on the empirical questions outlined in Section 2.5, our goal is to examine how multiple explanatory variables affect judicial decisions. To this end, we estimate the following model using ordinary least squares (OLS):

$$\begin{aligned} Y_{ict} = {} & \beta_W W_t + \beta_C C_t + \beta_{WC} W_t C_t \\ & + \sum_{k=1}^{6} \left[\gamma_X^k X_{ict}^k + \gamma_{WX}^k W_t X_{ict}^k + \gamma_{CX}^k C_t X_{ict}^k + \gamma_{WCX}^k W_t C_t X_{ict}^k \right] \\ & + \theta_c + \delta t + \sum_{j=1}^{13} \mu_j A_{jict} + \varepsilon_{ict}. \end{aligned} \tag{1}$$

Subscripts i, c, and t denote case, court, and year, respectively. We estimate three variants of (1), depending on whether Y_{ict} is IL_{ict}, SE_{ict}, or $ILvSE_{ict}$.

W_t indicates whether Britain is at war in year t and C_t indicates whether a Tory (or Conservative) government is in power. These two variables are correlated in our data (the correlation coefficient equals 0.23, with $p<0.001$) and therefore a test of whether one affects IL or SE would necessarily mean that both should be included in the model. Because the effect of a Tory government may differ between wartime and peacetime, we include their interaction.

Model (1) includes six salient case-level characteristics, X_{ict}^k: indicators for the state as plaintiff (or appellant), the state as defendant (or respondent), criminal cases, and cases pertaining to Ireland, India, and other colonies. These variables serve three purposes. First, they improve the precision of the estimated effects of war and government by accounting for systematic differences

[20] The 13 themes are procedure and reasoning, public governance, real and personal property, contract, debt and finance, inheritance, families, markets, organizations, intellectual property, torts, ecclesiastical, and criminal.

in the types of disputes reaching the courts—differences that reflect the broad social, political, economic, and religious issues adjudicated by the highest courts of an imperial state. Second, they are of substantive interest in their own right.

Third, the X_{ict}^{k} variables plausibly both covary with W_t or C_t and exert effects on judicial decisions that themselves vary with wartime conditions and government composition. For instance, the likelihood that a case originates in a colony may differ between war and peace or between Tory and Whig governments, while the adjudication of such cases may also depend on these political contexts. We therefore include the full set of interactions between war, government, and the case-level characteristics.

Finally, model (1) includes three additional sets of controls. First, we include court fixed effects, θ_c, which absorb time-invariant differences across courts, such as procedural features. As discussed below, we further disaggregate these fixed effects when assessing the role of common-law and judicial independence. Second, we control for the proportion of legal theme j in case i decided in court c at time t, A_{jict}, thereby accounting for heterogeneity in legal and factual content across cases. Third, we include a linear time trend, t, which captures secular changes in judicial ideology.

The parameters to be estimated are β_1, β_2, β_3, $(\gamma_X^k, \gamma_{WX}^k, \gamma_{CX}^k, \gamma_{WCX}^k)$ for $k = 1, \ldots, 6$, θ_c, δ, and μ_j, $j = 1, \ldots, 13$. ε_{ict} is the error term. We cluster standard errors by both year and court, allowing for correlation of unobservables among cases decided in the same year and within the same court. Given the presence of multiple higher-order interactions and the resulting multicollinearity, we focus on the results for average marginal effects (AMEs). These are computed at observed covariate values and averaged over the sample, facilitating interpretation of the estimated effects.

5.2. Results: the effects of war and Tory government

We first report three marginal effects, those for war, for a Tory government, and for war interacted with Tory government. The last of these quantifies the effect, within the sample values, of moving from a situation with peace and a Whig government to war and a Tory government.

The results on AMEs are presented in Table 2. (Coefficient estimates for the three variants of equation (1) are provided in Supplementary Appendix E.) The AME of war on IL is negative but not statistically significant; the effect on SE is positive and significant; and the effect on is ILvSE negative and significant. Substantively, war decreases IL by 0.02 standard deviations (hereafter, s.d.) and increases SE by 0.04 s.d.. The effect on ILvSE is a decline of 0.04 s.d.. This pattern is consistent with the security-driven state-building literature (Tilly 1990; Dincecco 2011), which places most emphasis on fiscal and administrative expansion during conflict.

The AME of Tory government on IL is negative and statistically significant, while the effect on SE is positive and insignificant, with the resultant effect on ILvSE being negative and significant. Substantively, Tory government decreases IL by 0.07 s.d. and increases SE by 0.02 s.d., with the net effect on ILvSE being a decline of 0.04 s.d.. These results provide systematic quantitative support for historical characterizations of Tory attachment to executive authority and the fiscal-military state (Hilton 2008; Hoppen 1998). At the same time, these findings extend the political economy literature on partisanship by demonstrating that ideological differences shape the content of law itself. Here, the link from government to law is via judicial decision, perhaps reflecting judges' endorsement of statute or reflecting their willingness to shape decisions to those preferred by the politicians in power.

Notably, the strongest effect on the investigated institutional features arises from the interaction of war and Tory government. The change from peace under the Whigs to war under the Tories produces statistically significant effects on all three measures. Substantively, that change decreases IL by 0.06 s.d. and increases SE by 0.06 s.d., with the resultant effect on ILvSE being a decline of 0.08 s.d.. The amplification produced by the conjunction of war and Tory government indicates that conflict and ideology are complementary forces—rather than substitutes—in reshaping institutional balances.

5.3. Results: the effects of salient case characteristics

The AME of the state as a plaintiff is significant for all three dependent variables. When the state is the plaintiff, IL decreases by 0.11 s.d., SE increases by 0.29 s.d., and ILvSE declines by 0.25 s.d.. When the state has direct interests in the outcome of the cases, the judges favor the state's interests. When the state is defendant, not surprisingly, the effects are similar to, but somewhat stronger, than when the state is plaintiff. All three AMEs are significant at the one-percent level. When the state is defendant, IL decreases by 0.39 s.d., SE increases by 0.75 s.d., with a resultant effect on ILvSE of a decline of 0.72 s.d.. The magnitude of these effects suggests that judicial supervision of executive action did not neutralize imbalances of power when the Crown's agents were challenged, qualifying narratives that portray British courts as providing robust constraints on government.

When the case in question is a criminal case, all AMEs are small and insignificant. At this time, all criminal cases originated with the Crown as the official plaintiff even though victims usually represented themselves and there was no presence of a Crown official in the court proceedings. Thus, in terms of the interests specifically represented, private parties were often dominant. Moreover, within the A_{jict} controls, one of the themes captures criminal content. Thus, the results on criminal cases might reflect the fact that designating a case as a criminal one adds no substantive information.

We now turn to the results obtained for the three variables reflecting whether cases were on appeal from a jurisdiction outside Great Britain. The contrast between the results for Ireland and those for India is marked.[21] When a case emanates from Ireland, IL decreases by 0.34 s.d., SE decreases by 0.52 s.d., and ILvSE decreases by 0.52 s.d. All three estimates are statistically significant. In contrast, when a case emanates from India, IL increases by 0.47 s.d., SE increases

[21] The results on other colonies are similar to those for Ireland but weaker in both statistical significance and effect size.

by 0.03 s.d., ILvSE increases by 0.25 s.d., but the SE effect is statistically insignificant. To frame these results in their most challenging interpretation, those for Ireland show the judges favoring the state while those for India show the judges favoring individual liberties.

What might explain this stark contrast? One conjecture is that our estimates reflect differences in governance and property ownership between the two dependencies. Many members of the British aristocracy, including judges, held property interests in Ireland.[22] Governance was under the direct influence of London, and after 1801 Ireland was part of the United Kingdom. Moreover, unrest in Ireland was a direct threat to England. In contrast, until the last decade of the period under study, India was governed by the Crown only very indirectly, with the East India Company, a creation of the new merchant elite, being the de facto governing authority. The extent to which the East India Company was controlled by the London government was always a matter of political contention, and was made more difficult by the moral hazard problem made worse by the distances involved. Unrest in India was not a threat to England itself, in contrast to the danger from Irish uprisings. Perhaps, court decisions reflected those differences: there was much less political pressure within England to be supportive of a strong state in India.

5.4. Results: the effects of judicial independence and the common-law

Two features of the English legal system have been much emphasized. First, it is usually characterized as following the common-law.[23] Second, formal judicial independence came early to England, implementation being on the death of Queen Anne in 1714 following a clause of the 1701 Act of Settlement.[24] As we emphasize in Section 2.3, both depictions are inaccurate: the common law was the governing law in fewer than half the courts in our dataset and the judicial independence clause applied to only a subset of the judges.

In order to test whether application of the common law has distinct effects relative to versus equity, civil, and canon law, it is not possible to simply add indicator variables to equation (1): the correlation with the court fixed effects (θ_c) is too high for reliable identification. However, an alternative procedure is feasible with a simple adaptation of model (1). We replace θ_c by a larger set of fixed effects that capture the full set of interactions between the court-indicators and an indicator for the application of common law.[25] Using this finer categorization, we create two mutually exclusive sets of fixed effects, one where the common law was applicable and the other

[22] Examples of judges are Robert Yelverton, James Mansfield, John Jervis, and Edward Sugden.
[23] The emphasis in the literature is hardly surprising. Blackstone (1765-1769) opens Book 3 saying that "The municipal law of England…may with sufficient propriety be divided into two kinds…the unwritten or common law; and the… written or statute law."
[24] For examples of the emphasis, see North and Weingast (1989: 816-820) and Olson (1993: 574).
[25] In practice, this led to the addition of three extra fixed effects, taking note of the fact that Exchequer, the Privy Council, and the House of Lords adjudicated both common-law and non-common-law cases. The procedure for differentiating between these two types of cases in these three courts is summarized in Section 3 above, with full details appearing in Supplementary Appendix D.

where it was not. Then, we test for differences between the observation-weighted mean of the common-law fixed effects and that of the non-common-law fixed effects.[26]

In the case of judicial independence, we replace θ_c by a larger set of fixed effects that capture the full set of interactions between the court-indicators and an indicator for the contemporaneous independence of the judges in the court.[27] We then apply an analogous test.

For both of these tests, the presence of the legal theme variables (A_{jict}) as controls in the estimated model is particularly crucial in view of the fact that different courts can be expected to adjudicate different types of cases. These theme variables absorb the effects of differences in the types of cases that appear in different courts.

Table 3 summarizes the results. There is no support for either the common law or judicial independence promoting individual liberties. While the judicial independence does statistically significantly tilt the balance between individual liberty and state effectiveness toward the former (Table 3, row A, last column), the effects of both common law and judicial independence on IL alone are negative and significant ()—in contrast to the positive sign that would be expected if the independence of judges under the common law were critical in the upholding of individual liberties in Britain.

These results challenge conventional claims and influential legal-origins arguments about English judicial independence as a cornerstone of liberty protection (Hamilton Federalist 78; North and Weingast 1989; La Porta et al. 2004). Neither common-law adjudication nor formal tenure protections systematically shift law toward individual liberty, underscoring the importance of partisanship and conflict variables over institutional form alone.

6. Conclusions

We have examined the determinants of the law on individual liberty and state effectiveness in Britain between 1765 and 1865. Our focus has been on the effects of war and partisanship, two variables that have received much attention in the existing literature. Crucially, we have included all four aspects—individual liberty, state effectiveness, war, and partisanship—in a single integrated framework. The use of a consistent methodology throughout means that we have been able to examine results on individual liberty and state effectiveness relative to each other and investigate whether there are trade-offs between the two. Moreover, we examine the relative importance of war and partisanship in a consistent framework, and in particular show that it is the combination of war and Tory government that most powerfully reshapes the institutional balance.

In addition, our analysis casts light on the role two fundamental pillars of English legal institutions—the common law and judicial independence—in safeguarding individual liberty. In contrast to conventional claims, originating primarily in the economics literature, we do not find evidence that either common-law or de jure judicial independence promoted individual liberty in

[26] The test takes into account that one fixed effect has to be omitted.
[27] In practice, this led to one additional fixed effect, reflecting the changed status of Admiralty in 1840.

the industrializing Britain. However, appeals from India did—in contrast to the presence of the state as a litigant and other cases originating from outside Britain.

On its own, this study of Britain between 1765 and 1865 provides an example in the history of development. It reflects a time of interstate rivalry, imperial governance, domestic unrest, and the evolution of modern party competition, all within a mature legal system viewed as foundational for liberal constitutionalism (Dicey 1915; Baker 2019). Beyond the singular example, however, the results in this paper have much broader relevance. British history has had an outsize effect on how social scientists and lawyers view modern economic development (e.g., North and Weingast 1989; Acemoglu and Robinson 2012; Burset 2023). We show how partisan commitments and conflict shaped this paradigmatic period of history.

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Table 1: Descriptive statistics

	Mean	S.D.	Min.	Max.
Outcomes and focal explanatory variables				
IL	5.983	1.464	1.250	9.500
SE	5.602	1.485	1.250	9.250
ILvSE	0.381	2.321	-8.000	8.250
War	0.324	0.468	0	1
Tory government	0.533	0.499	0	1
State as plaintiff	0.113	0.317	0	1
State as defendant	0.003	0.053	0	1
Criminal case	0.021	0.144	0	1
Irish case	0.001	0.035	0	1
Indian case	0.004	0.063	0	1
Other colony case	0.002	0.045	0	1
Courts				
Chancery	0.163	0.370	0	1
Common Pleas	0.121	0.326	0	1
Crown court	0.026	0.159	0	1
Exchequer	0.117	0.321	0	1
House of Lord's	0.021	0.142	0	1
King's/Queen's Bench	0.204	0.403	0	1
Nisi Prius	0.111	0.314	0	1
Privy Council	0.014	0.119	0	1
Rolls	0.067	0.250	0	1
Vice Chancellors	0.103	0.304	0	1
Admiralty	0.024	0.153	0	1
Ecclesiastical	0.018	0.132	0	1
Family	0.011	0.103	0	1
Legal themes				
Procedure and reasoning	0.506	0.199	0.009	0.990
Public governance	0.083	0.123	0.001	0.971
Real & personal property	0.042	0.078	<0.001	0.741
Contract	0.091	0.114	0.001	0.757
Debt and finance	0.068	0.086	<0.001	0.773
Inheritance	0.061	0.143	<0.001	0.932
Family	0.028	0.068	<0.001	0.881
Markets	0.018	0.050	<0.001	0.684
Organizations	0.024	0.067	<0.001	0.713
Intellectual property	0.018	0.050	<0.001	0.857
Torts	0.015	0.062	<0.001	0.979
Ecclesiastical	0.009	0.048	<0.001	0.855
Criminal	0.036	0.102	<0.001	0.951

Notes: The table reports descriptive statistics. The unit of observation is a case. The number of observations equals 67,453.

Table 2: Average marginal effects on IL, SE, and ILvSE

	Dependent variable:		
	IL	SE	ILvSE
War	-0.030	0.053*	-0.083***
	(0.025)	(0.030)	(0.029)
Tory government	-0.064**	0.025	-0.088***
	(0.030)	(0.026)	(0.024)
War & Tory government	-0.107**	0.084**	-0.191***
	(0.035)	(0.029)	(0.033)
Crown as plaintiff	-0.158**	0.425***	-0.582***
	(0.072)	(0.109)	(0.157)
Crown as defendant	-0.563***	1.114***	-1.677***
	(0.201)	(0.130)	(0.246)
Criminal case	-0.009	-0.021	0.011
	(0.055)	(0.101)	(0.128)
Irish case	-0.500***	-0.767***	0.267*
	(0.082)	(0.116)	(0.146)
Indian case	0.637***	0.047	0.590***
	(0.085)	(0.078)	(0.131)
Other colony case	-0.274***	-0.152*	-0.122
	(0.101)	(0.085)	(0.132)
Court fixed effects	Yes	Yes	Yes
Legal themes	Yes	Yes	Yes
Linear time trend	Yes	Yes	Yes
Adjusted R^2	0.025	0.116	0.069
Number of observations	67,453	67,453	67,453

Notes: The table reports average marginal effects based on OLS estimates of variants of model (1). The standard errors reported in parentheses are robust and clustered at the year and court levels. * $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$

Table 3: The effects of judicial independence and the common-law on IL and SE

	Dependent variable:		
	IL	SE	ILvSE
(A) Effect of judicial independence	-0.076***	-0.133***	0.058*
minus effect of non-independence	(0.024)	(0.028)	(0.031)
(B) Effect of common-law	-0.085***	-0.048	-0.037
minus effect of non-common-law	(0.019)	(0.027)	(0.036)

Notes: The table reports the results implied by the OLS estimates of the extended versions of model (1), as described in Section 5.4. The standard errors reported in parentheses are robust and clustered at the year and court × independence levels (row A) or the year and court × common-law levels (row B). * $p<0.10$, ** $p<0.05$, *** $p<0.01$

Figure 1: The prompts

(a) IL prompt

I will next ask you to assess a law report on a case heard in one of England's superior law courts in the 18th or 19th century. You must act as a knowledgeable and unbiased evaluator.

For that law report, you will assign a numeric score on the scale between 0.0 and 10.0, based on the following scoring guidelines:

0.0 - 2.0: The court's arguments undermine individual liberty, giving clear priority to concerns such as state power or community interests.
2.1 - 4.0: The court's arguments emphasize considerations that have negative implications for individual liberty, such as restricting freedom of speech or assembly, or allowing arbitrary state action, while recognizing individual liberty as a secondary concern.
4.1 - 6.0: The court's arguments are either altogether irrelevant to the issue of individual liberty, or they are ambiguous in the sense that some aspects support individual liberty while others potentially undermine it.
6.1 - 8.0: The court's arguments support individual liberty, but with qualifications. For example, they may give some weight to another concern, such as public interest, or allow for some arbitrary state action, while assigning greater weight to individual liberty.
8.1 - 10.0: The court's arguments strongly promote individual liberty, giving clear priority to individual rights and freedoms, and limiting state power.

When assessing the law report, you must keep in mind the notion of individual liberty, as implied by the passages you just read. Note that the language used in the law report will be formal and legalistic by default. Importantly, do not assess the report based on whether it makes broad philosophical statements.

(b) SE prompt

I will next ask you to assess a law report on a case heard in one of England's superior law courts in the 18th or 19th century. You must act as a knowledgeable and unbiased evaluator.

For that law report, you will assign a numeric score on the scale between 0.0 and 10.0, based on the following scoring guidelines:

0.0 - 2.0: The court's arguments undermine state effectiveness, giving clear priority to some other concern, such as individual rights.
2.1 - 4.0: The court's arguments emphasize considerations that have negative implications for state effectiveness, such as restricting the ability to tax or regulate productively, while recognizing state effectiveness as a secondary concern.
4.1 - 6.0: The court's arguments are either altogether irrelevant to the issue of state effectiveness (for example, the case concerns only private parties), or they are ambiguous in the sense that some aspects support state effectiveness while others potentially undermine it.
6.1 - 8.0: The court's arguments support state effectiveness, but with qualifications. For example, they may give some weight to another concern, such as individual rights, while assigning greater weight to the state's ability to act effectively.
8.1 - 10.0: The court's arguments strongly promote the state's fiscal, regulatory or bureaucratic effectiveness, giving clear priority to state power over competing concerns.

When assessing the law report, you must keep in mind the notion of state effectiveness, as implied by the passages you just read. Note that the language used in the law report will be formal and legalistic by default. Importantly, do not assess the report based on whether it makes broad philosophical statements.

Figure 2: The distribution of case reports by IL and SE scores

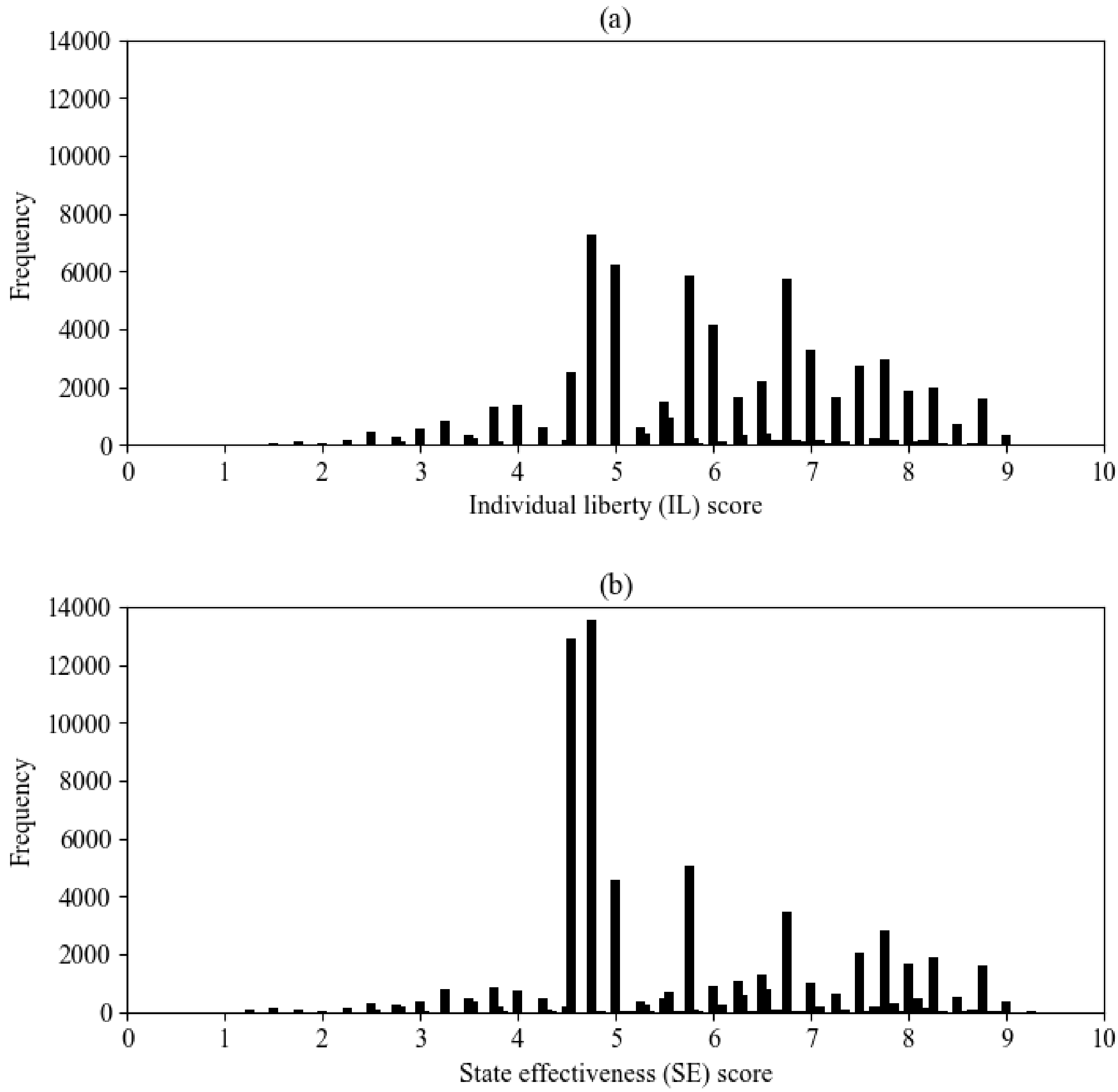
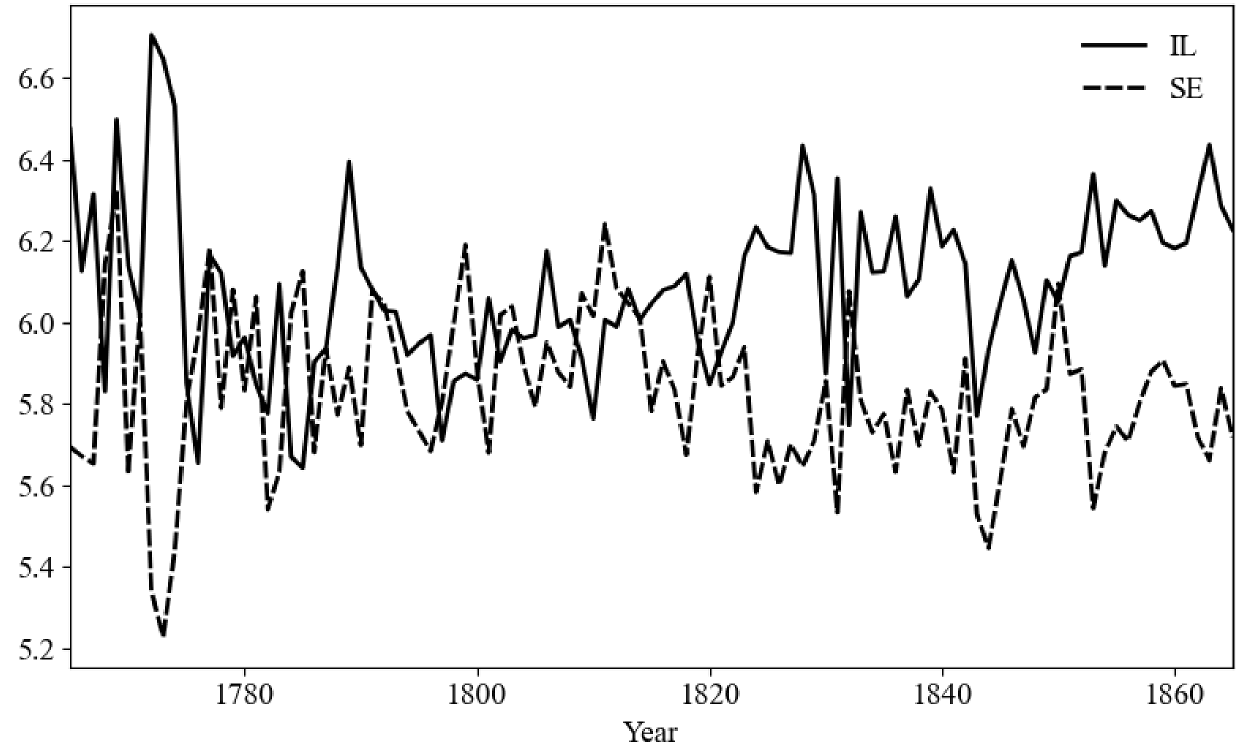


Figure 3: Individual liberty (IL) and state effectiveness (SE), 1765-1865



Notes: The figure shows the temporal evolution of the weighted annual mean IL and SE scores, with weights given by the length of law reports, measured as the number of words.

Online Supplementary Appendixes

Individual liberty and state effectiveness in industrializing Britain: The role of war, politics, and law

Peter Grajzl Peter Murrell

March 4, 2026

Appendix A

The courts

	Governing law	Judicial independence?	Description
Chancery	equity	no	In some interpretations (Earl of Oxford's Case 1615), this court stood above the common-law courts so that an appeal from those courts could be entertained by Chancery. The chief judge was the Lord Chancellor, who was the formal head of the legal system, and very often a member of the government. Chancery considered only civil cases, and not criminal ones. A wider range of processes and remedies was open to Chancery compared to those in the common-law courts and therefore Chancery played important roles in a variety of areas of law—property, contract, nuisance, trusts and estates, inheritance, company law, intellectual property, etc.
Common Pleas	common law	yes	Common Pleas was a senior common law court whose formal status remained high but whose practical importance steadily declined during the time period under consideration. It handled private civil litigation, but its jurisdiction overlapped with King's/Queen's Bench. It operated through a traditional writ-based procedure, which was modernized by mid-nineteenth-century procedural reforms.
Crown cases	as appropriate to case	yes (but see notes)	This is not a separate court with its own judges. Volumes 168 and 169 of the ER, containing "Crown cases" report on cases decided by a variety of different sets of judges: from the King's/Queen's Bench; from the King's/Queen's Bench, Common Pleas, and Exchequer; judges on in the assizes; or sometimes judges in special commissions. A large majority of the cases are "Crown Cases Reserved", criminal ones in which difficult points of law arise, and therefore were reserved by lower courts for special consideration.

	Governing law	Judicial independence?	Description
Exchequer	common law; equity until 1841	yes	This court began as a specialized fiscal (royal revenue, taxation, customs, and debts owed to the Crown) court but its caseload evolved into that of a general common-law court. By 1765, it exercised concurrent civil jurisdiction with the other common law courts, but still retained its special focus on fiscal business. By the mid-nineteenth century, it was functionally a general common law court. It also had an equitable jurisdiction, but overlapping in subject matter with Chancery, especially where revenue was involved. It dealt with equitable claims connected to fiscal matters. This side of its operations was moved to Chancery in 1840.
House of Lords	as appropriate to case on appeal	no	The House of Lords functioned as the final court of appeal, exercising ultimate appellate jurisdiction over both civil and criminal cases. It considered only legal issues, not factual ones. All members of the House could participate, but in practice the decisions were made by a small group of legally trained peers (often ex-judges), largely under the supervision of the Lord Chancellor. It's decisions were binding on all lower courts. The House provided the final word on statutory interpretation, the principles of the common law and of equity.
King's/Queen's Bench	common law	yes	This court, together with Nisi Prius (below), most encapsulated the vision evoked by the notion of the English legal system. It stood just below the House of Lords as the senior court in the regular operations of the common-law system considering first instance cases, often channeled upwards (when the law was particularly troublesome or the crimes particularly heinous) by individual judges on their assize circuits, and also cases on appeal from any other common-law courts. Unlike the Common Pleas and Exchequer, it handled both criminal and civil cases. The court was central in ruling on Habeas Corpus cases, giving it a significant role in constitutional matters. Jury trial was central. Procedure was formalistic, but was simplified somewhat by statute in the mid-19th-century. It was the court of choice for litigation involving government officials.

	Governing law	Judicial independence?	Description
Nisi Prius	common law	yes	This was not a separate court, but a procedural mechanism within the superior common-law courts (King's/Queen's Bench, Common Pleas, Exchequer). Typically nisi prius trials occurred at the assizes, when a single superior court judge was on their circuit. Juries determined facts; the judges directed on law. Trials were oral and adversarial. Nisi Prius provided an important forum for the development of evidence law. Important points of law were reserved for the full courts in Westminster, but could also reach those courts via post-trial motions.
Privy Council	as appropriate to case on appeal	no	An appellate court for hearing appeals from colonial courts, ecclesiastical courts, and admiralty, with cases usually not involving the government.
Rolls	equity	no	The Court of the Master of the Rolls was part of Chancery, handling much of the routine first-instance equitable jurisdiction. It evolved into a clearly distinct entity, but still under the Chancery. It handled trusts, fiduciary obligations, mortgages, administration of estates, partnership disputes, and related matters. Its decisions were central in the development of trust and fiduciary doctrine. It was formally subordinate to the Lord Chancellor in Chancery and its decisions could be appealed to the Lord Chancellor. There was heavy reliance on written documentary evidence, and juries were not used. The constitutional position of the Master of the Rolls did not match that of the common-law judges under the Act of Settlement.
Vice Chancellors	equity	yes	The Vice-Chancellors' Courts were created by 3 & 4 Will. IV c. 94, 1833, within Chancery, to relieve the burden on the Lord Chancellor and the Master of the Rolls. Their jurisdiction was the same as that of the Rolls. Their procedure followed standard Chancery procedure. They were first-instance courts, whose decisions could be appealed to the Lord Chancellor. The constitutional position of the Vice Chancellors was equivalent to that of the common-law judges under the Act of Settlement.

	Governing law	Judicial independence?	Description
Admiralty	civil law	after 1840	The High Court of Admiralty was a separate court exercising civil-law procedure (i.e., closer to European civil law than English common-law or equity). It exercised jurisdiction over maritime matters. Its processes rested on written evidence, and had not jury trials. It dealt with standard commercial, tort, and property issues that were connected to maritime affairs, but also with 'prize' jurisdiction, that is, the ownership of vessels and cargoes captured during war time. In the 19th century, statutes broadened its jurisdiction and gave its judge a constitutional position equivalent to that of the common-law judges under the Act of Settlement. Judges were Doctors of Civil Law, that is not trained in the Inns of Court.
Ecclesiastical	mixed: civil and canon	no	Several volumes of the English Reports are organized under the general title "Ecclesiastical, Admiralty, and Probate and Divorce". Discussion of the Admiralty appears above. Before 1858, a variety of courts within the established Anglican church structure handled cases on marriage, divorce, testamentary and probate matters, church discipline and office holding, tithes and ecclesiastical property. Judges were Doctors of Civil Law, that is not trained in the Inns of Court. From 1858 onwards, cases on marriage, divorce, testamentary and probate matters were heard in Courts of Probate and Divorce and Matrimonial Causes, which operated as secular civil courts. However, the cases directly relevant to church matters continued to be heard in the ecclesiastical courts.
Family	mixed: civil and canon	no	Courts of Probate and Divorce and Matrimonial Causes. See immediately above. The name "Family" is our abbreviation for the types of cases considered by these courts. These courts inherited the governing law and the caselaw of the Ecclesiastical Courts.

Appendix B

This appendix provides the text passed to the LLM for the purposes of in-context learning. Part B1 shows the text for individual liberty and part B2 for state effectiveness.

B1. Individual liberty

Please read the following text carefully as I will expect you to employ it later.

In what follows, I will draw your attention to a key concept that will be important in our subsequent interaction: individual liberty.

Individual liberty refers to the rights that shield individuals from arbitrary interference by the state or other actors, and to the institutional protection of these rights. It comprises three key aspects. First, personal liberty is the freedom from coercion in one's private life. Second, political liberty is the ability to participate in civic and political affairs. Third, property rights refers to the right to acquire, use, and dispose of private property.

Keep in mind two important points in using this definition. First, individual liberty is not equivalent to the absence of government. A weak or disordered state may leave individuals vulnerable to violence, exploitation, or dispossession. Second, liberty requires institutional constraints on the exercise of state power, but also a lawful and effective government that abides by those constraints and maintains the conditions under which individuals can lead secure and free lives.

Between the 16th and 19th centuries, a number of prominent English figures—philosophers, jurists, judges, social reformers, and statesmen—reflected on the importance of individual liberty, especially in the context of the growing administrative, fiscal, and regulatory power of the state. The following are examples of such thinkers and their ideas.

John Locke (1632-1704) articulated a vision of government grounded in the protection of individual rights. In his Second Treatise of Government, Locke contended that political power arises from a social contract formed to secure "life, liberty, and property". He maintained that "men being…by nature, all free, equal, and independent, no one can be put out of this estate, and subjected to the political power of another, without his own consent". While he famously insisted that rulers who violate the social contract must forfeit their authority, he also rejected the idea that liberty meant unbounded license: "Freedom is not a liberty for every man to do what he lists…but a liberty to dispose and order as he lists his person, actions, possessions, and his whole property, within the allowance of those laws under which he is". Liberty, in other words, required law: a framework of impartial rules that empowered individuals while restraining arbitrary power. Although Locke allowed for executive prerogative in cases where rigid law might fall short, he emphasized that such discretion must serve the public good and remain subject to accountability. His theory thus combines a profound distrust of concentrated power with a recognition that ordered liberty depends on an institutional framework strong enough to ensure justice and secure peace.

Edward Coke (1552-1634) placed the rule of law at the heart of English liberty, insisting that no authority—royal or parliamentary—stood above it. He held that the common law, grounded in reason and precedent, served as a check on arbitrary power and a safeguard against tyranny. His famous assertion that "the common law will control Acts of Parliament" if the Acts are contrary to natural reason reflected a deep conviction that law must serve as a higher standard to which all commands are answerable. In his Institutes, Coke declared that "Magna Carta…will have no sovereign", affirming the enduring principle that even the Crown is subject to law. For Coke, liberty was not the absence of order but its very product—secured through a legal system that constrained power, ensured procedural fairness, and provided the foundation for just governance.

Matthew Hale (1609-1676) defended liberty through his vision of the common law as a stable, reasoned tradition that constrained arbitrary governance. In his History of the Common Law of England, Hale emphasized that legal continuity — not political caprice — ought to guide the development of institutions. He praised trial by jury, for instance, as "the best manner of trial in the world", illustrating his belief that procedural safeguards were essential to justice. Hale held that both royal and parliamentary power must operate within inherited legal norms—a view rooted in his conviction that legitimate authority depends on its subjection to established law. His work provided a jurisprudential foundation for later constitutional restraint by insisting that even sovereign power is accountable to the customs and precedents of the common law.

William Blackstone (1723-1780) argued that the state exists not to grant, but to protect, pre-existing rights such as personal security, liberty, and property. In his Commentaries on the Laws of England, he emphasized that a government's legitimacy rests on its ability to safeguard these "absolute rights of individuals". He stressed that "the public good is in nothing more essentially interested, than in the protection of every individual's private rights"—a clear assertion that the defense of individual liberty is not only a matter of justice, but a foundational purpose of government itself. Blackstone viewed arbitrary power—particularly arbitrary detention—as the gravest threat to liberty, championing habeas corpus as the "stable bulwark of our liberties". Yet he also understood that liberty could not be preserved without a functioning legal system. For rights to be meaningful, they had to be enforceable through institutions capable of upholding law and delivering justice. Thus, while Blackstone insisted on limited government to guard against abuse, he recognized that liberty ultimately depends on an effective and law-bound structure of governance.

Thomas Hobbes (1588-1679) offered a starkly different view of the state and its relationship to individual liberty. Writing during the turmoil of the English Civil War, Hobbes argued that peace and security could only be achieved through an all-powerful sovereign. In Leviathan, he famously described life without government as "solitary, poor, nasty, brutish, and short," highlighting the perils of anarchy and unrestrained human conflict. He asserted that "the office of the sovereign… consisteth in the end for which he was trusted with the sovereign power, namely the procuration of the safety of the people," emphasizing that the state's overriding purpose was to ensure collective security. For Hobbes, liberty was not a natural right to be protected from the state but a condition that could only exist under its absolute authority. His theory prioritized order over freedom, viewing constraints on state power as dangerous rather than necessary. In this way, Hobbes's political thought stands in sharp contrast to those aspects of the English tradition that saw limited government as essential to the preservation of individual liberty.

Lord Mansfield (1705-1793) played a crucial role in delineating the legal boundaries of coercive power. In one legal case, he clarified that slavery had no basis in English law, rejecting custom and expedience as grounds for denying liberty. His ruling affirmed that state power must be anchored in clear legal authority. In another case, he declared, "The constitution does not allow reasons of State to influence our judgments: God forbid it should!", underscoring his conviction that justice must not yield to political expediency. Mansfield's jurisprudence insisted that the law's function is not to reflect prevailing interests, but to safeguard individual freedom through procedural clarity and principled restraint.

John Stuart Mill (1806-1873) provided a utilitarian defense of liberty, emphasizing its essential role in individual and societal progress. In On Liberty, he warned against the "tyranny of the majority" and state paternalism, which he believed stifled personal development. Mill's harm principle, which asserts that power may be exercised over individuals "only…to prevent harm to others", set a clear limit on state interference. Beyond this boundary, any intrusion by government would amount to overreach, undermining both personal freedom and collective advancement. Mill argued that liberty was not merely a safeguard but the foundation for human flourishing, enabling individuals to pursue their own paths and contribute meaningfully to society. The state's role, in his view, was to protect individuals from harm while exercising restraint—ensuring that its power did not curtail the very freedom necessary for progress.

Jeremy Bentham (1748-1832) championed a utilitarian vision of government, arguing that a strong, rational, and transparent state was essential to promote "the greatest happiness of the greatest number". Unlike thinkers who emphasized natural rights or liberty as a moral constraint on power, Bentham believed the legitimacy of state action should be judged by its consequences—particularly its ability to increase overall well-being. He advocated for sweeping legal reforms, centralized authority, and institutional transparency as means of improving governance and ensuring justice. "In the darkness of secrecy, sinister interest and evil in every shape have full swing", he warned, adding that "Publicity is the very soul of justice". For Bentham, the state was not a threat to liberty but a necessary instrument for rational progress. Its role was to codify laws, administer justice efficiently, and make policy in service of collective utility. Though he valued procedural safeguards, his emphasis on utility often led him to subordinate individual liberty to the broader goal of maximizing societal welfare.

Herbert Spencer (1820-1903) articulated a deep skepticism of state intervention, viewing the expansion of government authority as a direct threat to individual liberty and the spontaneous order of society. In The Man Versus the State, Spencer contended that coercive legislation undermines personal responsibility and weakens the moral fabric of voluntary social cooperation. He warned that each extension of state power inevitably leads to "a further growth of officialism and an increasing power of the organization formed of officials", predicting that well-intentioned reforms would give rise to bureaucratic overreach and dependency. For Spencer, liberty was not merely a political right but a precondition for human progress—something endangered by a paternalistic state. The proper role of government, he believed, was narrowly confined to protecting persons and property, not directing economic life or shaping moral outcomes. Any broader role risked displacing the self-regulating mechanisms of a free society with rigid, coercive control.

Edmund Burke (1729-1797), though a passionate defender of order and tradition, also warned against the dangers of unchecked political power—particularly when exercised in revolutionary or abstractly rationalist ways. In Reflections on the Revolution in France, Burke insisted that "the restraints on men, as well as their liberties, are to be reckoned among their rights", emphasizing that both freedom and constraint are essential components of a well-ordered society. He regarded the state not as the source of rights, but as a trustee charged with preserving inherited liberties through time-tested institutions. While Burke did not champion radical individual autonomy, he feared that a state untethered from custom and precedent would erode liberty in the name of progress. His thought thus occupies a middle ground: affirming the importance of individual rights, but insisting that they can only endure within a stable political order rooted in continuity, deference to tradition, and carefully bounded power.

Lord Kenyon (1732-1802) emphasized the foundational role of due process in protecting individual liberty. He insisted that legal proceedings must be governed by fairness and procedural integrity, particularly in criminal cases where state power weighs most heavily against the individual. In one case, Kenyon declared, "It is necessary to the administration of justice that every person, who is accused of a crime, should have an opportunity of being heard in his defense against the charge of which he is accused". This affirmation reflects Kenyon's broader commitment to ensuring that the machinery of justice serves not as an instrument of oppression, but as a safeguard against it. His jurisprudence helped entrench the principle that liberty cannot be curtailed without full and fair legal process.

A. V. Dicey (1835-1922) was steadfast in his defense of individual liberty against the encroachments of state power. In his Introduction to the Study of the Law of the Constitution, Dicey asserted that "the rule of law…means, in the first place, the absolute supremacy or predominance of regular law as opposed to the influence of arbitrary power, and excludes the existence of arbitrariness, of prerogative, or even of wide discretionary authority on the part of the government". Dicey emphasized that the rule of law was crucial for limiting government power and ensuring that fundamental rights—including personal freedom, freedom of discussion, and the right to public meeting—were safeguarded from arbitrary state action. For him, the state's authority must be constrained by established legal principles, and any deviation from these principles posed a grave threat to personal liberty.

Finally, it is important to emphasize that, between the 16th and 19th centuries, English courts of law endorsed a variety of institutional mechanisms designed to uphold personal liberty. Among these were habeas corpus, trial by jury, and procedural safeguards. At many times the implementation of these mechanisms led the courts to consider the balance between the protection of individual liberties and a strong state effectively pursuing the public good.

B2. State effectiveness

Please read the following text carefully as I will expect you to employ it later.

In what follows, I will draw your attention to a key concept that will be important in our subsequent interaction: state effectiveness.

State effectiveness refers to a state's ability to collect taxes, deliver public goods, build infrastructure , regulate economic activities, and engage in industrial policy. It comprises three key aspects. First, fiscal effectiveness is the ability to raise revenue, impose non-monetary levies (e.g., conscription), and finance government spending. Second, bureaucratic effectiveness is the ability to deploy an administrative apparatus to implement policy. Third, regulatory effectiveness refers to the ability to regulate in a manner that promotes the general prosperity of the country while balancing different interests.

Keep in mind three important points in using this definition: First, this definition deliberately omits the state's capacity to promulgate, adjudicate, and enforce those laws (e.g., property, contract, tort, criminal), aimed at securing the rights and freedoms that protect individuals from arbitrary interference by the state or other actors. We are only interested in the fiscal, bureaucratic, and regulatory effectiveness noted above. Second, states raise revenue and implement policies not only at the central level but also locally. State effectiveness should not be conflated with the size or scope of central government. A large or centralized government may lack real effectiveness if it causes resources to be misallocated (e.g., due to flawed governance). Third, substantial fiscal, bureaucratic, and regulatory powers alone do not guarantee that state actions will be directed toward inclusive or productive ends. The exercise of state powers must be carefully crafted. Only then can we say that the state is effective.

Between the 16th and 19th centuries, a number of prominent English figures—philosophers, jurists, judges, social reformers, and statesmen—reflected on the importance of state effectiveness. The following are examples of such thinkers and their ideas.

Thomas Hobbes (1588-1679) argued that a strong, centralized state was crucial to prevent chaos and maintain social order. Writing during the English Civil War, Hobbes contended that only a sovereign with absolute authority could provide peace and security. In Leviathan, he famously described life without government as "solitary, poor, nasty, brutish, and short", emphasizing the dangers of anarchy. Hobbes stated, "The office of the sovereign...consisteth in the end for which he was trusted with the sovereign power, namely the procuration of the safety of the people", underscoring that the primary duty of the state was to protect its citizens. His belief in a strong, centralized authority reflected his view that only such a state could prevent the natural conflicts of human life from destroying peaceful existence.

Francis Bacon (1561-1626) envisioned a state that encouraged the pursuit of knowledge to guide governance and societal progress. In New Atlantis, he imagined Solomon's House, a state-sponsored organization for scientific inquiry, describing it as "the noblest foundation…and the [lantern] of this kingdom", created "for the finding out of the true nature of all things…and the enlarging of the bounds of human empire". This organization reflected Bacon's belief that a well-structured state could foster discovery and improve the conditions of its people.

Thomas More (1478-1535) presented a vision of state effectiveness rooted in centralized governance, administrative clarity, and public provision. In Utopia, he depicted a society in which the state actively organizes labor, distributes goods, regulates education, and oversees communal life to secure the common good. "They take more care of their sick than of any others; these are lodged and provided for in public hospitals", reflecting a view that public health is a direct state responsibility. The Utopians' six-hour workdays, rotation of labor, and periodic resettlement policies reveal a bureaucratic apparatus capable of detailed planning and oversight. More described a society "so well governed and with so few laws, where virtue hath its due reward, and yet there is such an equality that every man lives in plenty". For him, the well-being of a commonwealth was not accidental but the product of a rational, efficient, and purpose-driven state.

William Petty (1623-1687) advocated for a strong, efficient government capable of managing resources and maximizing national wealth. In Natural and Political Observations, he asserted that "the Art of Governing, and the true Politicks, is how to preserve the Subject in Peace and Plenty". Petty believed that the state's power to collect taxes, regulate labor, and manage land was essential for national prosperity. He applied arithmetical and statistical methods to the analysis of the economy, viewing these tools as crucial for effective governance. Petty's emphasis on the importance of state intervention in economic affairs extended to his view that a centralized government should control and direct resources to provide for the public good. For him, the state's ability to collect and redistribute wealth through taxation was a vital instrument for maintaining order and promoting the welfare of society. Thus, Petty's vision of state effectiveness was one in which a well-organized, data-informed government could harness the full potential of the nation's resources to achieve economic and social stability.

John Locke (1632-1704) articulated a vision of government grounded in the protection of individual rights. In his Second Treatise of Government, Locke contended that political power arises from a social contract formed to secure "life, liberty, and property". He maintained that "men being…by nature, all free, equal, and independent, no one can be put out of this estate, and subjected to the political power of another, without his own consent". While he famously insisted that rulers who violate the social contract must forfeit their authority, he also rejected the idea that liberty meant unbounded license: "Freedom is not a liberty for every man to do what he lists…but a liberty to dispose and order as he lists his person, actions, possessions, and his whole property, within the allowance of those laws under which he is". Liberty, in other words, required law: a framework of impartial rules that empowered individuals while restraining arbitrary power. Although Locke allowed for executive prerogative in cases where rigid law might fall short, he emphasized that such discretion must serve the public good and remain subject to accountability. His theory thus combines a profound distrust of concentrated power with a recognition that ordered liberty depends on an institutional framework strong enough to ensure justice and secure peace.

Jeremy Bentham (1748-1832) championed the idea that strong, rational, and transparent state governance was essential for promoting the greatest happiness of the greatest number. He believed that centralized authority and institutional transparency were key in improving governance. Bentham argued that “In the darkness of secrecy, sinister interest and evil in every shape have full swing”, emphasizing that a government must operate openly to maintain public trust and accountability. For Bentham, the state’s ability to regulate, codify laws, and make governance more transparent was critical for fostering societal well-being. His belief in rationality and efficiency drove his advocacy for reform of legal and political systems, which he believed necessary for increasing social utility.

Lord Mansfield (1705-1793) played a crucial role in delineating the legal boundaries of coercive power. In one legal case, he clarified that slavery had no basis in English law, rejecting custom and expedience as grounds for denying liberty. His ruling affirmed that state power must be anchored in clear legal authority. In another case, he declared, “The constitution does not allow reasons of State to influence our judgments: God forbid it should!”, underscoring his conviction that justice must not yield to political expediency. Mansfield’s jurisprudence insisted that the law’s function is not to reflect prevailing interests, but to safeguard individual freedom through procedural clarity and principled restraint.

Edmund Burke (1729-1797), though a passionate defender of order and tradition, also warned against the dangers of unchecked state power—particularly when exercised in revolutionary or abstractly rationalist ways. In Reflections on the Revolution in France, Burke insisted that “the restraints on men, as well as their liberties, are to be reckoned among their rights”, emphasizing that both freedom and constraint are essential components of a well-ordered society. He regarded the state not as the source of rights, but as a trustee charged with preserving inherited liberties through time-tested institutions. While Burke did not champion radical individual autonomy, he feared that a state untethered from custom and precedent would erode liberty in the name of progress. His thought thus occupies a middle ground: affirming the importance of individual rights, but insisting that they can only endure within a stable political order rooted in continuity, deference to tradition, and carefully bounded power.

Edwin Chadwick (1800-1890) endorsed the role of proactive state government in safeguarding public welfare. In his seminal Report on the Sanitary Condition, Chadwick argued that effective governance was essential to address the dire sanitary conditions contributing to disease and mortality among the working class. He emphasized the state’s responsibility for improving living conditions, stating, “…it is only when the public health is made a matter of public care by a responsible public agency that [professional and scientific knowledge] can be expected to be generally and effectually applied for the public protection”. Chadwick’s advocacy for comprehensive sanitary reforms--improved drainage, waste removal, and clean water supply--underscored his belief that the state should be harnessed to enhance societal health and productivity. His work laid the foundation for modern public health policies, demonstrating that effective state governance is crucial for the well-being of its citizens.

William Pitt the Younger (1759-1806) promoted a vision of the state grounded in constitutional order, fiscal prudence, and the alignment of legal authority with national development. As Prime Minister during a time of foreign revolution and domestic financial strain, Pitt believed that Britain’s strength rested on the stability and credibility of its institutions. He attributed the nation’s exceptional prosperity to a mixed form of government--a constitutional arrangement that combined monarchical dignity with aristocratic balance and democratic participation: “We owe our present happiness and prosperity… to a mixture of monarchical government”, one that commanded public reverence for the sovereign while binding government through responsibility and a “wise system of laws”. Pitt’s fiscal reforms—including a systematic plan to reduce the national debt and the wartime introduction of income taxation—were designed to strengthen state effectiveness without eroding public trust. In his view, an effective government fostered the conditions for long-term national prosperity.

Robert Owen (1771-1858) championed the state’s active role in fostering social welfare through labor reform and community development. In his New View of Society, Owen contended that government intervention was necessary to address the degrading conditions and exploitation prevalent in industrial workplaces. He stated that “If there be one duty therefore more imperative than another, on the government of every country, it is, that it should adopt, without delay, the proper means to form those sentiments and habits in the people, which shall give the most permanent and substantial advantages to the individuals and to the community”. Owen’s advocacy for regulated working hours, prohibition of child labor, and state-supported education systems exemplified his conviction that the state should be an instrument for social improvement. His experimental community at New Lanark—where he implemented reduced working hours, improved housing, and comprehensive education—served as a practical demonstration of how state-guided industrial policy could enhance both worker welfare and productivity. Owen’s work gave impetus to the campaigns for labor legislation and social security systems.

Thomas Hill Green (1836-1882) advocated an active role for the state. In his influential Lectures on the Principles of Political Obligation, Green articulated the influential notion that later became known as “positive freedom”, arguing that genuine human development required state intervention to create enabling conditions. He maintained that individual freedom could only be realized through collective social action. Green’s philosophy justified state involvement in education, housing, and health as necessary prerequisites for citizens to achieve their full potential. In his critique of laissez-faire economics, he argued that unregulated markets threatened rather than enhanced true freedom. Green’s works provided the philosophical foundation for the welfare state, reflecting his idea that government intervention was not an impediment to liberty but a necessary condition to produce it.

Finally, it is important to emphasize that, between the 16th and 19th centuries, English courts of law endorsed a wide range of institutional mechanisms intended to enable the English state to enhance state effectiveness. For example, caselaw at various points in time authorized instruments such as prerogative powers and compulsory purchase. At many times the implementation of these mechanisms led the courts to consider the balance between a strong state effectively pursuing the public good and the protection of individual liberties.

Appendix C

LLM output when evaluating the case of Entick v. Carrington (1965: 95 ER 807)

Scores assigned

	DeepSeek-R1	GPT-4o
Individual Liberty	9.5	9.5
State Effectiveness	1	1.5

Reasoning DeepSeek-R1 Individual Liberty
"Alright, let me approach this systematically. The user wants a numeric score for the Entick v Carrington case based strictly on the predefined liberty scale.
First, recalling the core elements of individual liberty from the provided passages: protection from arbitrary state interference, with emphasis on personal liberty (freedom from coercion), property rights, and institutional safeguards. The court's reasoning must be evaluated against these principles.
The case involves state agents breaking into Entick's home, seizing papers without specific evidence of sedition. The defense relies on a Secretary of State's warrant, claiming historical precedent. The court's rejection centers on two key points:
1. **Illegality of the warrant**: The judges methodically dismantle the state's argument, emphasizing that no legal authority exists for such invasive searches. They explicitly state the warrant is ""wholly illegal and void,"" directly challenging arbitrary executive power.
2. **Property and privacy**: The ruling affirms papers as ""the dearest property,"" condemning unchecked seizure. This aligns perfectly with Blackstone's view of property rights as absolute and Coke's rule-of-law principles from the passages.
Notably, the court rejects ""state necessity"" arguments and historical precedent, invoking Magna Carta and common law traditions. The language ”calling the warrant ""worse than Spanish Inquisition" shows deep commitment to constraining state overreach.
Comparing to the scoring rubric:
- This isn't qualified support (6.1-8.0); the judgment leaves no room for state discretion.
- It actively demolishes arguments for state priority (0.0-4.0 range is irrelevant).
- The unambiguous, foundational protection of home/property against arbitrary power fits squarely in the 8.1-10.0 band.
Minor caveat: The judges condemn libels, but this doesn't weaken the liberty protection ”it merely clarifies the ruling isn't endorsing lawlessness. The core holding remains a sweeping limitation on state power.
Thus, 9.5 reflects near-maximum alignment with individual liberty principles, only avoiding 10.0 because the case doesn't establish new positive rights (it negates state overreach)."

Reasoning GPT-4o Individual Liberty
The case of John Entick v. Nathan Carrington and others is a landmark decision in English law that strongly supports individual liberty. The court ruled against the defendants, who acted under a warrant issued by the Secretary of State to search Entick's home and seize his papers. The court found that the warrant was illegal and void, emphasizing that such actions were contrary to the principles of English law, which protect individual property and privacy. The court's decision highlighted that no authority, including the Secretary of State, had the power to issue general

warrants that allowed for arbitrary searches and seizures. This ruling reinforced the importance of protecting individual rights against arbitrary state action, aligning with the principles of individual liberty as defined in the passages. The court's arguments clearly prioritized individual rights and freedoms, limiting state power and setting a precedent for the protection of personal liberty. Therefore, the court's decision in this case strongly promotes individual liberty.

Reasoning DeepSeek-R1 State Effectiveness
"Alright, let me tackle this assessment. The user wants a numeric score for the Entick v Carrington case based strictly on state effectiveness as defined earlier.
First, recalling the core concept: state effectiveness focuses on fiscal, bureaucratic, and regulatory capabilities - specifically excluding protections against arbitrary state power. The case involves state agents (messengers) executing a Secretary of State's warrant to search a home and seize papers for alleged seditious libel.
Key observations from the report:
- The court ruled the warrant entirely illegal, rejecting the state's argument that such powers existed by custom since the Revolution
- The judgment emphatically protected private property against state intrusion, comparing it to ""worse than Spanish Inquisition""
- No recognition of state needs for investigating sedition; instead, the ruling dismantled an established enforcement mechanism
This directly impacts bureaucratic effectiveness (ability to implement policy) and regulatory effectiveness (ability to control seditious materials). By invalidating the warrant procedure, the court severely restricts the state's operational capacity in these areas.
The scoring guidelines clarify that prioritizing individual rights over state power falls in the 0.0-2.0 range. Here, the court:
- Wholly subordinates state investigative needs to property rights
- Provides no alternative pathways for effective enforcement
- Actively dismantles existing bureaucratic practice
Thus, the ruling doesn't merely qualify state effectiveness but actively undermines it by removing a tool previously used for regulatory enforcement. The passionate language condemning state overreach confirms this orientation.
Therefore, the score must reflect this fundamental prioritization of individual liberty at the direct expense of state operational capacity."

Reasoning GPT-4o State Effectiveness
The case of John Entick v. Nathan Carrington and others is a landmark decision in English law, particularly concerning the limits of state power and the protection of individual rights. The court ruled against the defendants, who acted under a warrant issued by the Secretary of State to search Entick's home and seize his papers. The court found that the warrant was illegal and void, emphasizing that such a warrant was not supported by law and that the actions taken under it constituted a trespass. In terms of state effectiveness, the court's decision clearly prioritizes the protection of individual rights over the state's ability to act unilaterally in the name of security or public order. The ruling underscores the importance of legal authority and due process, limiting the state's power to conduct searches and seizures without proper legal justification. This decision restricts the state's regulatory and bureaucratic effectiveness by requiring adherence to legal standards and protecting citizens from arbitrary state actions. Given the scoring guidelines,

the court's arguments in this case undermine state effectiveness by giving clear priority to individual rights and limiting the state's ability to act without legal constraints. Therefore, the appropriate score reflects the court's emphasis on individual rights over state effectiveness.

Appendix D

The construction of the case-characterization variables.

The involvement of the state

The English Reports do not classify cases according to the involvement of the state. However, case names are included in the metadata of our digitized dataset. Therefore, we primarily relied on the appearance of 'Rex' or 'Regina' in the case names to produce the information on state participation.[28] We also assumed that the appearance of state legal officers or state commissions or executive departments in the case name indicated the involvement of an agent of the state since private individuals were able to sue representatives of the state and since much state activity at this time was decentralized to officials or quasi-independent state bodies.[29] However, this variable does not catch the cases where the name of an individual state agent appears in the case name: using only case names, the state agent Carrington in Entick v. Carrington (1765; 95 ER 807) cannot be distinguished from the private citizen Carrington in Carrington v Taylor (1809; 103 ER 1172). Of course, more sophisticated machine learning might allow us to make a differentiation using the detailed words of the case, but that would carry the risk of a mechanical correlation with our dependent variables.

India

The English Reports separately delineates cases on appeal from India, which fill volumes 18, 19, and 20. An indicator for India reflects the pertinent information from the volume numbers included in our case metadata.

Criminal cases, Irish cases, and cases from colonies other than India

Separately for all three categories, we classify cases using the word embedding techniques developed by Gennaro and Ash (2022) and applied in a legal-historical context by Grajzl and Murrell (2025).

Briefly, the technique is as follows. We first estimate a 300-dimension word embedding for each separate case report in the dataset. Then, let X be one of the three categories: criminal cases, Irish cases, or cases from colonies other than India Then, we construct a set of words that tend to be used much more in situations where the case pertains X. Word embeddings for each one of these words are estimated using the case reports as data. Then the embeddings are averaged across X's set of words. Finally, for each case, we calculate the cosine similarity between the embedding for the case and the average embedding for the words indicative of X.. Each cosine similarity measures how close the content of each case is to the set of words for used for X.

Under the null hypothesis that all observations are random, the distribution of pairwise cosine similarities would be Gaussian. If a subset of observations systematically exhibits elevated similarity, the empirical distribution will display positive skewness. We therefore fit a normal distribution to the observed cosine similarity values to approximate the null model. Using this fitted distribution, we determine the cosine similarity threshold at which the posterior probability

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[28] We also searched for variants of these: R., The King, The Queen, and The Crown.

[29] The terms we searched for Attorney General, Solicitor General, Treasury, Customs, Excise, Secretary of State, Ecclesiastical Commissioners, Public Works Commissioners, West India Relief Commissioners, Commissioners of Charitable Donations,
Inland Revenue Commissioners. Regular expressions were used to find likely variants of these.

that an observation is drawn from the null distribution equals 0.5. A dummy variable then indicates whether the cosine similarity exceeds this threshold. This dummy variable indicates whether the case is likely to be one from category X.

This exercise is repeated with criminal cases, Irish cases, or cases from colonies other than India standing in for X. Of course, the set of words used for each of the three classifications differs. Therefore the set of cosine-similarities and their 0.5 thresholds will differ. Thus three separate dummy variables are derived, for each of criminal cases, Irish cases, and cases from colonies other than India.

Common-law versus non-Common-Law

The last exercise in Section 5 requires distinguishing between cases that fall under the common law and those that do not. The latter are primarily equity cases. The Exchequer (until 1840), the Privy Council, and the House of Lords adjudicated both common-law and non-common-law cases. We use the same procedure for all three courts. Hence, the procedure below is applied three times, for each court X ∈ {Exchequer (until 1840), Privy Council, House of Lords}.

We use a supervised text-classification procedure to assign each court X case to one of two case types—common-law or non-common-law. Since we know that all Common Pleas cases are common-law and all Chancery cases are non-common-law, we use cases in these two courts for the labeled training data. Prior to feature construction, the text of each case report is cleaned by removing a curated set of court-identifying terms, including explicit references to court names, reporter names, and related identifying language. Removal is conducted using case-insensitive regular expressions and also targets Porter-stemmed variants of each listed term. The classifier is trained exclusively on cases labeled as in Common Pleas or Chancery and is subsequently applied to cases labeled as court X.

The cleaned text is transformed into numerical features using a term frequency–inverse document frequency (TF–IDF) representation. The vectorizer includes unigrams and bigrams, retains at most 5,000 features, excludes terms appearing in fewer than two documents, and removes terms appearing in more than 80 percent of documents. A regularized logistic regression model is estimated on the Common Pleas and Chancery training sample. The fitted model generates predicted labels and class probabilities for court X cases. Predicted classifications matching Common Pleas are coded as common law and predicted classifications matching Chancery are coded as non-common-law.

Appendix E

OLS estimates of the three variants of equation (1)

	Dependent variable:		
	IL	SE	ILvSE
War	0.030	0.040	-0.011
	(0.034)	(0.038)	(0.052)
Tory Govt.	-0.014	0.007	-0.021
	(0.030)	(0.024)	(0.026)
War×Tory Govt.	-0.121***	0.015	-0.137**
	(0.035)	(0.034)	(0.056)
State-plaintiff	-0.158**	0.386***	-0.544***
	(0.064)	(0.083)	(0.098)
War×State-plaintiff	0.117	-0.049	0.166
	(0.073)	(0.080)	(0.099)
Tory Govt.×State-plaintiff	-0.045	0.054	-0.099
	(0.062)	(0.076)	(0.122)
War×Tory Govt.×State-plaintiff	-0.059	0.116	-0.175
	(0.090)	(0.104)	(0.149)
State-defendant	-0.485*	0.939**	-1.424**
	(0.243)	(0.347)	(0.540)
War×State-defendant	0.655*	-0.433	1.088*
	(0.349)	(0.350)	(0.577)
Tory Govt.×State-defendant	0.340	0.036	0.304
	(0.470)	(0.637)	(1.047)
War×Tory Govt.×State-defendant	-2.079***	1.308**	-3.387***
	(0.641)	(0.471)	(0.640)
Criminal-case	0.123*	-0.072	0.195**
	(0.066)	(0.081)	(0.082)
War×Criminal-case	-0.473**	0.281*	-0.754**
	(0.166)	(0.157)	(0.277)
Tory Govt.×Criminal-case	-0.231**	-0.018	-0.213
	(0.093)	(0.078)	(0.150)
War×Tory Govt.×Criminal-case	0.637**	-0.132	0.769*
	(0.244)	(0.183)	(0.357)
Irish-case	-0.167*	-1.052***	0.885***
	(0.092)	(0.164)	(0.195)
War×Irish-case	-0.980***	-0.713*	-0.267
	(0.125)	(0.366)	(0.406)
Tory Govt.×Irish-case	-0.596***	0.777***	-1.372***
	(0.151)	(0.164)	(0.242)
War×Tory Govt.×Irish-case	1.332***	0.453	0.879*
	(0.197)	(0.384)	(0.442)

Indian-case	0.477***	0.064	0.412***
	(0.078)	(0.076)	(0.100)
War×Indian-case	-0.247	-0.139	-0.108
	(0.162)	(0.200)	(0.355)
Tory Govt.×Indian-case	0.070	-0.045	0.116
	(0.203)	(0.201)	(0.378)
War×Tory Govt.×Indian-case	0.897***	0.232	0.665
	(0.247)	(0.259)	(0.487)
Other-colony-case	-0.204	-0.405***	0.201
	(0.117)	(0.132)	(0.195)
War×Other-colony-case	1.008***	-0.406	1.414*
	(0.294)	(0.462)	(0.686)
Tory Govt.×Other-colony-case	-0.072	0.509	-0.581*
	(0.199)	(0.383)	(0.323)
War×Tory Govt.×Other-colony-case	-1.581***	0.502*	-2.083***
	(0.440)	(0.280)	(0.625)
Linear time trend	0.003*	0.002*	0.001
	(0.001)	(0.001)	(0.001)
Chancery	0.047	-0.027	0.074
	(0.039)	(0.059)	(0.063)
Common Pleas	-0.088***	-0.023	-0.064
	(0.028)	(0.042)	(0.060)
Crown court	-0.123	-0.073	-0.050
	(0.081)	(0.063)	(0.129)
Exchequer	-0.189***	0.034	-0.223***
	(0.031)	(0.038)	(0.054)
House of Lord's	0.211***	0.280***	-0.068
	(0.042)	(0.056)	(0.076)
Nisi Prius	0.039	-0.311***	0.350***
	(0.027)	(0.032)	(0.050)
Privy Council	0.126**	0.328***	-0.203***
	(0.049)	(0.048)	(0.066)
Rolls	-0.086*	-0.092*	0.005
	(0.045)	(0.050)	(0.077)
Vice Chancellors	-0.004	-0.067	0.063
	(0.042)	(0.043)	(0.073)
Admiralty	-0.323***	0.594***	-0.917***
	(0.071)	(0.041)	(0.099)
Ecclesiastical	0.224***	0.629***	-0.405***
	(0.072)	(0.046)	(0.105)
Family	0.002	0.409***	-0.406***
	(0.109)	(0.052)	(0.125)
Case content: public governance	0.277	2.312***	-2.035***
	(0.208)	(0.250)	(0.282)

Case content: real and personal property	1.947***	-0.456***	2.403***
	(0.135)	(0.134)	(0.157)
Case content: contract	0.874***	-0.402**	1.276***
	(0.191)	(0.163)	(0.289)
Case content: debt and finance	0.817**	1.098***	-0.281
	(0.294)	(0.185)	(0.208)
Case content: inheritance	0.126	-1.125***	1.251***
	(0.111)	(0.103)	(0.123)
Case content: family	1.003**	-1.541***	2.543***
	(0.419)	(0.163)	(0.436)
Case content: markets	0.220	0.687*	-0.467*
	(0.245)	(0.323)	(0.240)
Case content: organizations	0.568***	1.502***	-0.934***
	(0.118)	(0.192)	(0.271)
Case content: intellectual property	1.027***	1.506***	-0.479
	(0.237)	(0.250)	(0.340)
Case content: torts	1.042***	-0.201	1.242**
	(0.332)	(0.224)	(0.533)
Case content: ecclesiastical	0.395	1.462***	-1.067**
	(0.366)	(0.158)	(0.379)
Case content: criminal	0.906***	0.445**	0.462*
	(0.133)	(0.164)	(0.231)
Constant	5.513***	5.240***	0.272***
	(0.108)	(0.089)	(0.063)
Observations	67453	67453	67453
R-squared	0.026	0.117	0.070
Adj. R-squared	0.025	0.116	0.069

Robust standard errors clustered at year and court levels in parentheses
* p<0.10, ** p<0.05, *** p<0.01
'King's Bench' and 'Case content: procedure & reasoning' omitted