SUMMARY OF AMERICAN LAW

by

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CHAPTER I

INTRODUCTION

§ 1. Origin of forms of action.[1] Before the Norman conquest of England in 1066 the people were the fountainhead of justice. The Anglo-Saxon courts of those days were composed of large numbers of freemen and the law which they administered, was that which had been handed down by oral tradition from generation to generation. In competition with these popular, nonprofessional courts the Norman king, who insisted that he was the fountainhead of justice, set up his own tribunals. The judges who presided over these royal courts were the agents or representatives of the king, not of the people; but they were professional lawyers who devoted most of their time and energy to the administration of justice, and the courts over which they presided were so efficient that they gradually all but displaced the popular, nonprofessional courts.

The Anglo-Saxon tribunals had been open to all; every freeman could appeal to them for justice. But there was no corresponding right to sue in the king's courts. That was a privilege which had to be purchased by any suitor who wished to avail himself of the superior efficiency of royal justice. These privileges were issued to suitors by the king's secretary or chancellor, and the document which evidenced the privilege was called an original writ. Since it was necessary that the writ be issued before the king's courts were authorized to hear the case, the royal judges had only a limited, not a universal jurisdiction.