

HANDOUT 1: Common Law



- Common law is judge-made law.
- It dates back to the justiciars in England who travelled the countryside, meeting with the townspeople to solve disputes.
- In each community a local group of twelve senior men would tell the justiciars which persons were accused of breaching the local customary law.
- Those men or jurors would most often have no direct knowledge of the crime.
- Once the accused was brought forward before the court, the jury would assist by telling exactly what the customary law was.
- The local accusers would tell their story.
- If the accused was found guilty, s/he might be put to a test such as a trial by ordeal.
- Over time the same type of disputes arose and the justiciars started to apply the law in the same way in similar cases much like our judges today.
- This practice created the common law and the idea of precedents, that is, following the decisions in previous cases that had similar fact patterns.