

AN
HISTORICAL TREATISE
ON THE
FEUDAL LAW,
AND THE
CONSTITUTION AND LAWS
OF
ENGLAND

William S. Hein & Co., Inc.
Buffalo, New York
2003

Library of Congress Cataloging-in-Publication Data

Sullivan, Francis Stoughton, 1719-1776.

An historical treatise on the feudal law, and the constitution and laws of England.

p. cm.

Originally published: London : J. Johnson and J. Payne, 1772.

Includes index.

ISBN 1-57588-801-7 (alk. paper)

1. Feudal law--England--History. 2. Constitutional history--England. I. Title.

KD554.S85 2003

349.42--dc22

2003056752

This acid-free reprint was digitally archived under
the strict quality control guidelines established by
William S. Hein & Co., Inc.'s "Preservation Program"
This program was established to preserve the integrity of
legal classics for future generations of legal researchers.

This paper meets the requirements of
ANSI/NISO Z39.48-1992 (Permanence of Paper).



Printed in the United States of America.

A N
HISTORICAL TREATISE
ON THE
FEUDAL LAW,
AND THE
CONSTITUTION and LAWS
OF
ENGLAND;

With a COMMENTARY on

MAGNA CHARTA,

And necessary Illustrations of many of the

ENGLISH STATUTES.

In a Course of LECTURES read in the University of DUBLIN,

BY THE LATE

FRANCIS STOUGHTON SULLIVAN, *L.L.D.*

Royal Professor of the COMMON LAW in that UNIVERSITY.

LONDON:

Printed for J. JOHNSON, N^o 72, St. Paul's Church-yard; and
J. PAYNE.

M. DCC. LXXII.

London, March 20, 1772.

In the Press, and speedily will be Published,

In Three Volumes, Quarto,

THE
H I S T O R Y

OF

I R E L A N D,

FROM THE

INVASION of HENRY the Second.

WITH A

PRELIMINARY DISCOURSE

ON THE

ANTIEN STATE of that KINGDOM.

By *THOMAS LELAND, D. D.*

Fellow of Trinity College, *Dublin.*

T H E
P R E F A C E.

THE study of the laws and customs of nations is a subject peculiarly interesting to mankind, considered either as philosophers, or members of particular societies. If it be a pleasure to us to trace the causes of those appearances which are continually soliciting our attention, and if it be the nature of man not to be satisfied with knowing merely that things *are*, without knowing also how they came to be what they are, it must give us great pleasure to have the origin and progress of the laws of our own country clearly unfolded to us; and persons of a speculative turn of mind, will have a peculiar relish for this kind of pleasure. Established customs are *effects*, in the contemplation of which we cannot help looking for a *cause*; and if a person of an inquisitive, and, I may say, of a proper turn of mind, cannot gaze at the rainbow with perfect satisfaction, till he understands the manner in which it is formed, much less can he live contented without being able to account for what he sees every day, and what is more interesting to him, viz. the manners and customs of the people with whom he is most intimately connected, and to which he himself conforms.

The proper study of mankind is man, and we have no better access to the genuine principles of humane nature, than by means of the manners and customs which they have adopted, and the regulations to which they have chosen to submit their conduct. In them we see the objects of general desire, or general apprehension; and diversities in laws and customs are the best *indices* of diversities in the genius and disposition of nations; for they necessarily correspond to one another.

If simplicity in causes, and variety in effects, furnish a pleasing object of contemplation, the moral philosopher may expect the highest gratification from this theory, for here the surest and simplest principles will be found to have had the greatest and most extensive effects, and such as have continued (though changing with adequate circumstances) through a succession of many ages, to the present time. It is like tracing the course of a noble river, the waters of which, receiving continual recruits, and conducted in various beautiful windings, flow through and enrich a vast extent of country.

On this account the laws and customs of the *European* nations furnish an object of inquiry peculiarly pleasing. For in the manners of the old German nations, from which they are derived, we find the greatest simplicity imaginable; and, in a great variety of circumstances, they had their free, natural, and uncontrouled influence. Hence has arisen a most astonishing variety, though not without some general uniformity, in the manners and laws of many European nations, corresponding to the different situations into which they have been thrown; whereas, in other parts of the world, and especially in the East, we are presented with nothing but a disgusting uniformity; human nature, in those countries, having never been left to its natural luxuriancy, which can only arise from a state of independence, together with a variety in our circumstances and mutual relations; but every man, in that part of the world, has, from the earliest account of things, been either a tyrant or a slave.

For the same reason that the customs of the European nations, in general, afford a more pleasing object of speculation than those of other parts of the world, the laws and customs of *England* make an object more worthy of attention than those of other European states; because in this country the natural course of things has been less obstructed, or controuled by outward force. To resume our former allusion. In contemplating the laws of this country, in all their changes, from the earliest to the present times, we may consider ourselves

ourselves as taking a view of a river, the course of which has been solely directed by the inequality of the surface over which it has flowed, and has not been conducted in channels made by art, and which it would not have chosen for itself. Here it is that we see how men have thought and acted for themselves, in which the influence of their natural disposition, and of their circumstances, has been uncontrouled; whereas, in the case of most other countries, we are only informed what regulations have been imposed by others. With respect to them the only subject of inquiry is the motive to which the imposition was owing; and this has seldom been any other than the lust of pleasure, or power, with little or no regard to any thing relating to the people who are chiefly interested in them.

Besides, England presents a scene in which great numbers were always free and independent, and in which the lowest orders of men have been gradually attaining more and more independence, till they are now as free as their masters themselves; and this is a spectacle that will ever be delightful to generous minds; whereas the history of France, and of most other European countries, in which we see nothing but one successful effort of tyranny after another, and in which human nature has been almost continually degraded and debased, cannot be read, except by those whose souls have been formed in that state of abject servitude, without indignation and disgust.

If we consider ourselves as uninterested in what is past, and concerned only in what is present, it still behoves us to form clear ideas of the relations we actually stand in to our fellow-creatures around us, and the rules by which our own conduct must be regulated. Every man must be concerned to know the demands which his neighbours and fellow-citizens have upon him, and the bounds of his own expectations from them. Every member of a state must feel himself interested to know the rank which he holds in the society.

society to which he belongs, and what higher and more conspicuous station it is in his power to attain, and also the degradations and sufferings to which he is exposed. Now this knowledge is acquired by nothing but the study of the constitution and laws of our own country.

Every thing that has been advanced in favour of the *subject* of this treatise, the editor, who has given very particular attention to it, imagines to be in favour of the *work* itself: for in no other performance has he seen so just, so easy, and so comprehensive a view of the origin and progress of the English constitution and laws. At the same time that this work is sufficiently *systematical*, even for lawyers, the order of history, by which he has been principally guided, makes it peculiarly adapted to the use of gentlemen and scholars.

Though it will be seen that Dr. Sullivan had not completed his whole scheme; yet he has brought the history of the English laws and constitution through all the changes that have any degree of difficulty attending them, and there are few topics of law, the present state of which he has not sufficiently explained. If the work had no other value, Dr. Sullivan's admirable vindication of the original freedom of our constitution, and his excellent commentary on *Magna Charta*, ought to render these lectures peculiarly dear to every Englishman.

No work executed on so general and liberal a plan as this ought to supersede more systematical treatises, with those who make the study of law a profession; but such a work will be greatly in aid of more systematical treatises, and make them much better understood. On this account those gentlemen who are possessed of *Dr. Blackstone's Commentaries on the Laws of England* will find their account in having Dr. Sullivan's also.

C O N T E N T S.

C O N T E N T S.

L E C T U R E I.

*T*HE intention and purposes of political society—Customs and manners govern men before the enactment of positive laws—Arts and property the sources of legislation—Peculiarities attending the institutions of Lycurgus and those of Moses—In the infancy of a state, laws are few and plain—In times of civility and refinement, they are numerous and complicated—The liberty of the people, a great cause of the multiplicity of laws—The difficulty of the study of the English law—The methods which have been followed in the study of it.

L E C T. II.

* The plan of the present undertaking—The particulars in which it differs from that adopted by Mr. Blackstone—The different situations of the Universities of Oxford and Dublin—The chief obstructions which occur to the student of the English laws—The methods which may be employed to remove them—The law of things more proper to introduce a system of jurisprudence than the law of persons—The law of things, or of real property in England, has its source in the feudal customs—The necessity of a general acquaintance with the principles of the feudal polity—The method in which it is proposed to treat of it.

L E C T. III.

An enumeration and confutation of several opinions concerning the foundation of the feudal customs—The origin and rules of the feudal law to be deduced from the institution of the German nations before they invaded the Roman empire—The English indebted for this law to the Franks—A general description of this people, with an account of the several orders of men into which they were divided while they continued in Germany.

LECT. IV.

The companions of a German Prince—The constitution of a German kingdom—The condition of property in Germany—The methods followed there of distributing justice, and the nature of the punishments inflicted on criminals.

LECT. V.

The decline of the Roman empire—The invasions of the Northern nations—The manner in which they settled in the Roman provinces—The changes insensibly introduced among them in consequence of their new situation—The policy and condition of the Franks after they had settled in France—The rise of the feudal law—Estates beneficiary and temporary.

LECT. VI.

The introduction of estates for life into the feudal system—The nature and forms of investiture—The oath of fealty, and the obligations of Lord and tenant.

LECT. VII.

Improper feuds or benefices—Grants to the Church—Grants in which the oath of fealty was remitted—Grants to which a condition was annexed that enlarged or diminished the estate—Grants which reserved certain other services, beside military service—Grants implying some certain service, as rent, and not reserving military service—Grants reserving no services, but general fealty—Grand Serjeantry—Petty Serjeantry—Grants to women—Grants of things not corporeal—Feudum de Cavena—Feudum de Camera.

LECT. VIII.

Feudum Soldatæ—Feudum habitationis—Feudum Guardie—Feudum Gastaldie—Feudum mercedis—Incorporeal benefices in England—Advowsons—Presentative advowsons—Collative advowsons—Donatives.

LECT.

L E C T. IX.

Tithes—The voluntary contributions of the faithful, the original revenue of the Church—The establishment of regular payments—The appropriations of the Church—The history and general rules of tithes in England.

L E C T. X.

The right of Seignory and its consequences—The right of Reversion—Rent seck—Rent charge—The nature of distress, as the remedy for recovering feudal duties. Observations on distresses in general.

L E C T. XI.

The manner in which estates for life came to be enlarged into descendible estates—The nature of Reliefs—Feudal oppressions—The admission of allodial lands into the feudal policy—The extension of the feudal system in France.

L E C T. XII.

Consequences attending the introduction of estates of inheritance—The incident of homage—Differences in England and the Continent, with regard to the ceremonies of homage and fealty—The fine of alienation—Attornment—Warranties—Wardship in chivalry.

L E C T. XIII.

Wardship in Socage—The nature and history of the incident of marriage.

L E C T. XIV.

The rules of descent in the old feudal law in regard to the sons of the last possessor—Representation and collateral succession—Feminine feuds.

L E C T. XV.

The difference between allodial and feudal lands—The restrictions on the feudal law—The decay of these—The history of voluntary alienations.

C O N T E N T S.

L E C T. XVI.

Involuntary alienations of feudal land—Tallage—Edward I. introduces the first involuntary attachment of lands—Statutes enacted for this purpose—Their effects—The origin of estates Tail.

L E C T. XVII.

The consequences and history of estates Tail.

L E C T. XVIII.

The constitution of a feudal monarchy—The dignity and revenues of the King—An examination of his power as to the raising of taxes and subsidies.

L E C T. XIX.

The King's power as to the making, repealing, altering, or dispensing with laws.

L E C T. XX.

Lords of Parliament or Peers—Earls and Barons—The earlier state of Baronies in England—The Barones majores & minores—Barons by writ and by letters patent—The different ranks of Nobility.

L E C T. XXI.

Earls or Counts as distinguished from Barons—The office of Counts—Their condition after the conquest—Counties Palatine in England—Counties Palatine in Ireland—Spiritual Peers—The trials of Noblemen.

L E C T. XXII.

The share of the Commons in the Legislature—The Armigeri or Gentry—Knights Bannerets—The nature of Knighthood altered in the reign of James I.—Knights Baronets—Citizens and Burgbers—The advancement of the power and reputation of the Commons.

L E C T.

• L E C T. XXIII.

The privilege of voting for Knights of the Shire—The business of the different branches of the Legislature, distinct and separate—The method of passing laws—The history and form of the legislature in Ireland.

L E C T. XXIV.

Villenage—The Servi in Germany, mentioned by Cæsar and Tacitus, the predecessors of the Socmen or socage tenants in the feudal monarchy—Villeins in gross and villeins belonging to the land of the Lord—The condition of villeins—The different ways by which a man may become a villein—The means by which villenage or its effects may be suspended.

L E C T. XXV.

The methods invented to destroy villenage—The bent of the law of England towards liberty—Copyhold tenants—Tenants in ancient demesne.

L E C T. XXVI.

The condition and state of laws in England during the Saxon times—The military policy of the Saxons not so perfect as that of the Franks—Their Kings elective—The division of the kingdom into shires, hundreds, and tithings—The administration of justice—The county court—The hundred court and court leet—The court-baron—The curia regis—Method of trial in the Saxon courts—The ordeal—The waging of law—The trial by battle—Juries.

L E C T. XXVII.

The punishment of public crimes and private wrongs among the Saxons—The ranks of men among the Saxons—The difficulty of ascertaining the nature of the Saxon estates, and the tenures by which they were held—Observations to prove, that the Saxon lands were in general allodial.

L E C T.

LECT. XXVIII.

The Saxons, though their lands in general were allodial, were not strangers to military benefices for life—The alterations introduced by William the Norman, as to the tenure of lands in England.

LECT. XXIX.

The alterations introduced by William, as to the administration of justice—The Judges of the Curia Regis are appointed from among the Normans—The county courts decline—The introduction of the Norman language—The distinction between courts of record, and not of record—The separation of the spiritual and temporal courts—The consequences of this measure.

LECT. XXX.

Robert Duke of Normandy, and William Rufus, dispute the succession to the Conqueror—The English prefer the latter—The forest laws—The cruelty and oppressions of William—The advancement of Henry, the Conqueror's youngest son, to the crown of England—He grants a charter—The nature of this charter—His dispute with Anselm concerning Investitures—The celibacy of the clergy—State of the kingdom under Stephen.

LECT. XXXI.

Henry II. succeeds to the crown—The reformation of abuses—Alterations introduced into the English Law—The commutation of services into money—Escuage or Scutage—Reliefs—Assizes of novel disseisin, and other assizes.

LECT. XXXII.

The institution of Judges itinerant, or Justices in Eyre—The advantages attending it—The jurisdiction of these Judges—Their circuits—The present form of transacting

transacting the county business—The division of the Curia Regis into four courts—The jurisdiction of the court of King's Bench.

L E C T. XXXIII.

The jurisdiction of the high court of chancery—The chancellor, a very considerable officer in the Curia Regis—The repeal of letters patent, improvidently issued to the detriment of the King or the subject, a branch of the jurisdiction of the court of chancery—The chancery, assistant to the exchequer in matters of the King's revenue—Other branches of the business of this court.

L E C T. XXXIV.

The court of Common Bench or Common Pleas—The jurisdiction of this court—Actions real, personal, or mixt—The court of Exchequer—The jurisdiction of this court—Exchequer chamber—The judicature of Parliament.

L E C T. XXXV.

Henry II's dispute with Becket—The constitutions of Clarendon—The murder of Becket.

L E C T. XXXVI.

The rebellions of Henry's sons—He is succeeded by Richard I.—The steps taken at this period towards settling the succession to the kingdom—The laws of Oleron—Accession of John—His cruelty and oppressions.

L E C T. XXXVII.

*John's dispute with the court of Rome—Cardinal Langton promoted to be Archbishop of Canterbury—Pope Innocent lays the kingdom under an interdict—John is excommunicated—His submission to Innocent—The discontents of the Barons—Magna charta and charta de Foresta—An examination of the Question, Whether the rights and liberties, contained in these charters, are to be considered as the
antient*

antient rights and liberties of the nation, or as the fruits of rebellion, and revocable by the successors of John?

L E C T. XXXVIII.

The minority of Henry III.—Ecclesiastical grievances—The dispensing power—The canon law—Confirmation of Magna Charta—A commentary on Magna charta, in so far as it relates to what now is law.

L E C T. XXXIX, XL, XLI, XLII, & XLIII.

Continuation of the commentary on Magna Charta.

I N D E X.

A

	Page.
A BBOTS	222
Abeyance	151
Actions of debt	45
on the case	45, 338
personal	328, 342
real	341, 398
mixed	342
possessory and petitory	318
to be tried by the judges itinerant	324
of waste	342
of ejection	<i>ibid.</i>
Acts of State, see proclamations	
Admiralty jurisdiction	361
court of	395
Advowsons of Bishpries	86
right of nomination in whom lodged	87
representative	88
collative	90
donative	91
now subsisting in England	92
how forfeited	94
Ætius	53
Agiftment when due to the Clergy	104
Aids and subsidies	192
Alias writ of	389
Alans	49
Alarick	50, 51
Alexander III.	350
Alexander Severus	25
Alfred makes a law for the payment of tythes	99
his boast of the liberty he transmitted to England	198
divided England into counties, hundreds, and tithings	218, 268

	Page.
Alienation	74
_____ of lands	88, 89, 161, 162, 163, 164, 166, 169, 173, 177, 418
_____ in mortmain	423
Allodial, fee estates allodial	
Allodians attach themselves to their neighbouring Lords	126
Amalfi, a copy of the civil law found there	199
Amerciaments, how settled by Magna Charta	377
Appeals, where properly to be brought	328
Appeal for murder	204, 421
Arabs, erect academies for the study of their laws	11
Armigeri	226
Arresting by mittimus	402
_____ persons not authorized by warrant	403
Assemblies, general. The share they held in the government in the	13th
_____ century	39
_____ manner of admitting members therein	40
_____ crimes cognizable thereby	<i>ibid.</i>
Assessors in Germany	106
Assize trial by	273
_____ of nouvelle disseizin	317
_____ writ of	318
Athenians, their multiplicity of laws	6
Ataulphus	51
Athol, Duke of	212
Attainder of felony	378
Attornment	131
Attorney-General	345

B

B AIL, superior power in the Court of King's Bench to take it	328
Baron of England, its original import	206
_____ quantum of revenue to qualify for attendance in parliament	207
Barons, oppose the arbitrary measures of King John	368
_____ of the Exchequer	345
Barones majores & minores	208
_____ their rules of descent	212
_____ minores privileges obtained by writ of election to parliament	211
Baronets, by whom first created	229
Baronies by tenure	207
_____ long since worn out among the laity	210
Barristers at law	340
	Bastards

I N D E X.

	Page.
Bastards	251
Becket Thomas a	350, 356
Beauchamp John, the first peer created by patent	213
Benefices, or grants of land, wherefore so called	55
_____ improper	76, &c.
_____ incorporeal	86
Beneficiary law	27
_____ estates	125
Berytus, its famous academy	10
Bishops, how chosen in the infancy of Christianity	86
_____ their ancient revenue	88
_____ allocate the tythes in aid of the glebe	89
_____ retain the general cure of souls	<i>ibid.</i>
_____ their seats in parliament, whence derived	222
Bishop's court, originally joined to the Sheriff's	269
Bishops of Rome, their artful conduct to obtain the supremacy	91
_____ dismember bishopricks	<i>ibid.</i>
_____ attempt to over-rule general councils	<i>ibid.</i>
_____ practice upon sovereign Princes	92
_____ encouragers of the civil law	199
_____ their Bull ineffectual to silence the people of England, when incensed against Richard II.	201
_____ assume a dispensing power	205
_____ their views respecting England	295
_____ lord it over the Kings of Europe	348
_____ compel King John to surrender his crown	367
_____ dispose of the English benefices by provisorship	374
Blackstone (Judge)	10, 11, 12
Bodies corporate	231
Bracton	143, 198, 245, 318, 325, 341, 379
Brevia testata	68
Britain, Great. Whence its multiplied laws	7, 8
_____ its peculiar advantages	8
Britton	198, 379
Brothers, not the heirs one of another	154, 155
Brunchild	122
Burghers, see citizens	
Burgundians	7, 51, 52
Butlerage of England	81
Bye-Laws	231

C

	Page.
CANON law	16, 199, 224, 375
Capias, writ of	389
_____ for a fine	413
Capitula itineris	324
Castleguard	57
Castration	275
Celtiberians, see Spaniards	26
Census, a tax among the Franks	54
Chancellor of England	272
_____ his ancient office	332
_____ derivation of his name	333
_____ of the Exchequer	345
Chancery, court of	262, 327
_____ ordinary	331, 338
_____ extraordinary	396, 399
Chapters, their origin	88
Charles I. his claim of ship-money	189
_____ his conduct to the Earl of Bristol	209
_____ raises money by Knights fines	229
Charles II. purchases the right of prisage of wines	81
_____ abolishes the feudal system	76, 147, 166
Charles the Bald	125
Charlemagne	88, 97
Charters	231, 305
Church benefices stiled improper feuds	76
_____ lands not secured by living evidence	67
_____ secured by brevia testata	68
_____ revenue of; how anciently distributed.	88
Churchmen, see clergy	
Circuits established by Henry II.	321, 325
Citizens of London, anciently stiled Barons	206
_____ their original state	230
_____ anciently no part of the body politic	231
_____ admitted to vote along with Knights of the Shires	232
Civil law	16, 169
_____ attempted to be introduced by the Princes of Europe	199
_____ and by the Pope	<i>ibid.</i>
_____ became blended with the feudal	<i>ibid.</i>
_____ destructive of freedom	<i>ibid.</i>
_____ opposed by the English parliament	<i>ibid.</i>

I N D E X

	Page:
Civil law, openly countenanced by Richard II. _____	200
_____ obligations of a freeman to his patron thereby _____	255
Claudian _____	52
Clergy, their wealth and importance _____	59
_____ their practice of redeeming slaves _____	60
_____ divested of their possessions by Martel _____	61
_____ supported by the voluntary contributions of the people _____	86
_____ their temporalities, how derived _____	88
_____ feudal tenants to the Bishop of their præcinct _____	90
_____ rendered serviceable to the views of the Pope _____	92
_____ SECULAR, depressed under the Norman Kings _____	100
_____ the only lawyers in the reign of William II. _____	<i>ibid.</i> 297
_____ banished the temporal courts _____	100
_____ celibacy of the _____	307
_____ the only people that could read and write _____	296
_____ DIGNIFIED, their share in the legislation _____	291
_____ IN FRANCE, make one distinct state _____	222
Clothair II. _____	122
Clovis _____	33, 54, 57, 58, 59
Coats of arms _____	226, 227
_____ became hereditary _____	316
Coiff of a Sirgeant at Law, conjecture about its origin _____	297
Cojudge _____	106
Coke, Lord _____	19, 80, 179, 277, 281, 210, 218, 238, 244, 254, 330, 370, 381, 384, 387, 398, 400, 405, 407, 409, 410, 412, 414, 418, 423
Collation to a living _____	91
Colleges _____	95
Commons, house of _____	226, 346, 347
_____ its present constitution compared with the feudal principles _____	232
_____ its advance in privilege and powers _____	235
_____ whether most inclined to popular or oligarchical influence _____	235, 237
Common Pleas, court of _____	326, 339, 343
Commentaries on the Laws, how multiplied by the Romans at the time of Justinian _____	6
Commoner, his right of excepting against the Sheriffs return of a Jury _____	225
Commerce, its effect in multiplying laws _____	5
_____ FOREIGN _____	169
_____ regarded by Magna Charta _____	414
Commune Concilium, further the designs of William the Conqueror _____	287
Commissioners of Customs _____	245
Commissioners.	

	Page.
Commissioners of Excise	245
Appeals	<i>ibid.</i>
Companions of the King or Prince	35
Constitutions of Clarendon	224, 298, 353
Contumier of Normandy	294
Convocation of the Clergy	300
Conrad Emperor	27
Constable, High of England	81
Constantine Porphyrogintes	26, 51
Convivæ Regis, a title on whom conferred	58
Copyhold tenants	244
Corvinus	85
Cork, kingdom of	221
Covassals, <i>fee pares curiæ</i>	
Councils general	91
Counts, their origin and employments	58
obtain grants of estates for life	64, 206
<i>fee earldoms</i>	
County court	116, 269, 271, 322
Counties, their origin	58
PALATINE	220
Court of wards	147, 344
record, the Kings, its cognizance of covenants to alienate	165
merchant	172
of the constable	199
admiralty	<i>ibid.</i>
Tourn	269, 294
Sheriffs, <i>fee Sheriff</i>	
of the hundred	270
Leet	<i>ib.</i> 294
Baron	<i>ibid.</i>
Courts of Westminster-Hall	13
Ecclesiastical and temporal, their rights settled	299
Martial	395
of Record, what are such	294
not of Record, what are such	<i>ibid.</i>
Craig	30
Cranmer	102
Creation money	219
Crimes public, what among the Franks	46
how punished	275
Cross, sign of it used in the first written instruments	68
Curia Regis, judges in that court	271
Curia	

I N D E X,

	Page.
Curia Regis how appointed by William the Conqueror	293
_____ the foundation of the Lords judicature in parliament	271
_____ their pleadings entered in the Norman language	293
_____ divided into four courts	326
Customs paid on merchandize	191
_____ LOCAL; origin of several	323, 406

D.

D A N E G E L T	309
Decretals of the Pope	348, 349
Decd poll	110
Demefnes	56
Demurrer, what	333
Derby, Earl of	212
Descents by feudal law to whom	149
_____ law of	156
Dioces, how subdivided into parishes	87, 88
Dispensing power, a prerogative claimed by the Stuarts	204
_____ distinct from a power of pardoning	205
_____ opposed by the early lawyers	341
Distress, what	73, 111, 112
_____ introduced instead of actual forfeiture	108
_____ severity of English Lords in levying it, restrained	112
_____ how and where to be levied	113
_____ restrictions in levying it	<i>ibid.</i>
Duelling, the practice whence derived	44
Dukes	206
Dyer's reports	45

E

E A R L D O M S of England; quantum of Knight's fees assigned thereto	180
_____ how anciently held	217
_____ wherein differing from Barons	<i>ibid.</i>
_____ when created	218
Earls	206
_____ their authority restricted in the County court	219
_____ PALATINE	206
_____ the first created	220

Ecclesiastical:

	Page.
Ecclesiastical Courts	294
_____ how separated from the temporal	298, 299
_____ their right of recognizance of suits for benefices annulled by the temporal courts	300
_____ screen their members from the rigour of the law <i>ib.</i>	350
_____ their power of excommunication	393
Edgar King, severity of the law enacted by him for the payment of tythes	99
_____ division of the Sheriff's and Bishop's court in his reign	269
Edmundsbury, meeting of the Barons there	368
Edward I. his dispute concerning grand fargeanty grants	78
_____ gives in parliament a new confirmation of Magna Charta	79
_____ renounces the taking of talliage	<i>ibid.</i>
_____ his action against the Bishop of Exeter respecting homage	129
_____ motives for his conduct	134
_____ the CONFESSOR, his laws	198
Egypt, ancient method of studying the laws there	10
_____ tythes first introduced there	96
Elegit, writ of	172
Elizabeth, Queen, causes her proclamation to carry the force of laws	203
_____ why submitted to by the people,	<i>ibid.</i>
_____ her false policy in encouraging monopolies in trade	204
_____ discontinued the granting of protections	414
Emma, Queen	45
Enfranchisement, express	255
_____ implied	256, 257
England, how divided by the Saxons	257
_____ divided into circuits by Henry II.	324
Escheat	109, 154
_____ of the King	324, 416
Escuage	108, 315
Esquires, their rank	227
Estates, allodial	58, 59, 63, 117, 159, 277
_____ of CONTINUANCE	65
_____ TAIL	110, 133, 134, 176
_____ BENEFICIARY	125
_____ FEUDAL, not liable to the debts of the feudatory	161
Ethelwolf, establishes tythes by law in England	99
Evidence, the kind admissible among the Franks before the use of letters	67
Exchequer, court of,	326, 341, 343
_____ ordinary	344
_____ extraordinary	345
_____ chamber	346

Extent

Extent		171
Eyre, or circuit, omissions of places in first and second		325

F

Fealty, the oath of		68
its obligations		69
why not required of the Lords		72
Fee simple		110
tail	110, 133,	134
Females, their dowery among the Franks		41
the part they bore in the state		<i>ibid.</i>
excluded from descent by the feudal law		149
under what limitations admitted		<i>ibid.</i>
Feud, whence adopted into common language		130
Feudal law, see LAW		
Feuds improper		76, &c.
advowsons		86
tythes		95
FEMININE		157
Feudum de Cavena		83
camera		<i>ibid.</i>
foldatæ		85
habitationis		<i>ibid.</i>
guardiæ		<i>ibid.</i>
gastaldiæ		<i>ib. 86</i>
mercedis		<i>ib. 86</i>
Fiefs		25, 41, 62
feminine		181
Fine levied on entailed lands		185
Fines honorary		118
established as a fruit of tenure		130
abolished at the restoration		131
for licence to plead in the King's court		272
First fruits and tenths		92
Fictions of law		331, 342
Fish weires		382
Fleta		198, 380
Forest laws, whence derived		42
Formedon, writ of 3 kinds		177
Fortescue		189, 198, 255
Frank pledge		269

	Page.
Franks	7, 27, 28, 29, 30, 35, 37, 40, 42, 44, 46, 47, 52, 53, 54, 55, 62
Freemen, among the Germans, the nature of the allegiance required from them to their Princes	36
Free alms	222
Furnivall, William	80
G	
G ALLAWAY, county palatine of	221
Gascoigne, Judge	401
Gavel kind	149, 278
Gauls	26, 38, 123
Gentry, who so called	226
their peculiar privileges	<i>ibid.</i>
cause of their military disposition subsiding	227
Gentilis homo, its ancient and modern acceptation	59
Geoffry of Monmouth	26
Germans, their method of deciding disputes by single combat	44
murder not punished by death among them	46
Germany, its condition at the time of the Franks	39
its ancient constitution nearly resembling that of England	39
Gilbert Judge, his opinion concerning the division of courts	336
Glanville	120, 143, 164, 198, 313, 316, 359
Glebe land, how obtained by the clergy	88
Gold and silver, their use unknown to the Franks	40
Goths	7, 49, 50, 51, 52
Grand assize, for what purpose invented	45
Grandsons	119, 154, 155
Grants, the first feudal ones	57
temporary	63
beneficiary	<i>ibid.</i>
FOR LIFE, how obtained	64
improper	76, 77
to women	82
of things not corporeal	<i>ibid.</i>
to indefinite generations	123
laws tending to establish them	126
of William the Conqueror to his followers	180
of Knight's fees	<i>ibid.</i>
Gregory, Pope, demands homage and Peter's pence from William the Conqueror	297
Gratian	349
Guardianship, see wardship.	
1	Habeas

H

	Page.
H A B E A S Corpus	328, 404
Hale, Sir Mathew	17, 233, 322
Heptarchy	275
Heriots	277, 281
Hearth money	148
Heir in tail	177
Heirs of landed inheritance	150
Hengift	198
Henry I. his charter in favour of the Saxon laws	305
subdues Normandy	308
II. payment in kind commuted into money	77
his quarrel with Pope Alexander II.	350
his wholesome regulations	311, 312
III. introduces a dispensing power into England	205, 375
consequences of his neglecting to summons the Barones majores	209
his illegal patent opposed by Roger de Thurkeby	205
his oppressions	374
VI. his mistaken conduct with regard to Ireland	240
VIII. his danger upon throwing off the Pope's supremacy	102
suppresses the monasteries	<i>ibid.</i>
meets a court of Ward	147
obtains from parliament a sanction for his proclamations to bear the force of laws	203
Hereford, Earl of, his dispute with Edward I.	78
Homage	68
when instituted, and how performed	128
fealty	129
warranty, a consequence of homage	131
auncestrel, the import of this term	132
duties arising from homage to lord and vassal	130
Honorius	51
Hugh Capel	27, 151
Hunns	49, 50

I

J A M E S I. his arbitrary claims	201
mistaken policy in encreasing monopolies	204
institutes a new title of honour	229

	Page.
Independence of the King, the idea thereof entertained by the early Franks	36
Inhabitants of Europe, their propensity to the making of new laws	7
Innocent III.	363, 365
Inns of Court, wherefore founded	9
_____ their ancient usefulness	<i>ibid.</i>
_____ their present state	<i>ibid.</i>
_____ Institution to a living	91
Interdict laid on England by Innocent III.	366
Investiture proper	65
_____ improper	66
_____ its nature fixes the line of duty	77
John, King, mutual hatred between him and his nobles	121
_____ his arbitrary government	170, 383
_____ claims a right of taxation	195
_____ omits summoning some of the Barones majores	208
_____ deprives the earls of the thirds of the county profits	219
_____ supplants his nephew Arthur	360
Jornandes	42
Ireland, peerages there recovered by petition	215
_____ erected into palatinates	220
_____ form of trial of noblemen in that kingdom	225
_____ the statutes of Edward II. abolished	229
_____ state of legislation there	238, 243
_____ influence of Poyning's law on its government	241
Issue joined	318
Italian priests, the chief possessors of benefices in England in John's reign	372
Judges itinerant	321
_____ their jurisdiction	324
_____ of assize	398
_____ judgment, in what instances obtained without the intervention of juries	385
Juries, trial by	274
_____ their original power	269
_____ judges of law and fact	321, 387
Justice, method of administering it among the Salic Franks	42
Justices of Nisi Prius	271, 326
_____ errant	<i>ibid.</i>
_____ of assize	<i>ibid.</i>
_____ of oyer and terminer	325
_____ of gaol delivery	271
_____ of Quarter Sessions	<i>ibid.</i> 399
_____ in Eyre	321
	Justice

Judiciary of England	_____	_____	271, 326, 327
_____ discontinued by Edward I.	_____	_____	331

K.

K ENDICK	_____	_____	198
Kildare, county palatine of	_____	_____	221
King's Bench, court of	_____	_____	327
_____ its power in taking bail	_____	_____	328
_____ suits cognizable therein	_____	327, 328,	333
_____ its peculiar distinctions	_____	_____	339, 341
King never dies, origin of that maxim.	_____	_____	153
Kings, elective among the Franks.	_____	_____	33, 36
_____ their power.	_____	_____	55, 56, 227
_____ Norman, the arms born by them	_____	_____	74
Kings of England, their power anciently limited.	_____	_____	79
_____ their right of service from their vassals	_____	_____	<i>ibid.</i>
_____ possessed of donatives	_____	_____	92
_____ their ecclesiastical jurisdiction	_____	_____	93
_____ their title to supreme ordinary, whence derived	_____	_____	<i>ibid.</i>
_____ their power by the feudal law	_____	_____	187
_____ executive branch of government belongs to them	_____	_____	189
_____ their revenue	_____	_____	<i>ibid.</i>
_____ their supplies for foreign wars	_____	_____	190
_____ their authority, whence derived	_____	_____	193
_____ their proclamations, how far legal.	_____	_____	201
_____ their dispensing power	_____	_____	204
_____ their demesnes unalienable.	_____	_____	208
_____ their prerogative of summoning the lesser Barons to parliament	_____	_____	209
_____ their right of raising peers to a higher rank	_____	_____	216
_____ their power of settling precedency	_____	_____	<i>ibid.</i>
_____ not one of the three estates, but the head of all	_____	_____	223
_____ their right of appointing peers to try an accused nobleman	_____	_____	225
_____ ancient concern in making laws	_____	_____	237
_____ their present influence in framing laws	_____	_____	238
_____ their style when speaking of themselves	_____	_____	288
_____ have no power to create new criminal courts.	_____	_____	411
Kingfale, Lord.	_____	_____	216

Knights,

	Page.
Knights, origin of that dignity	40
their advantages over the Lords with regard to feudal payments	121
service	142
when abolished	166
fees	207
their privileges by writ of election to parliament	211
their rank	227
their ancient dignity	228
BANNERET	228

L

L AITY, when excluded from the election of the clergy	86
Lands, their property how far alienable among the Jews	6
distributed to the Christians by the General Assembly	40
interest of lord and vassal therein	73
Saxons, by what tenures they held their lands	277
Langton, Legate	367
Lateran, council of	98
Lawing	304
Laws feudal, the foundation of the law of things	18
the foundation of the English constitution	19
method of teaching them	21
their origin and progress	<i>ibid.</i>
succeed the Roman imperial law	23
various opinions on their origin	<i>ibid.</i>
not derived from Roman laws and customs	25
first reduced into writing by the Lombards	28
their tendency to cherish the national liberties of mankind	32
IN ENGLAND, permit no Lord to be challenged by the suitors	106
allow a power of appeal to the King's court	<i>ibid.</i>
their doctrine of remainder	<i>ibid.</i>
respecting warranty	131
wardship	136, 137
their obligations on minors	145
Laws POSITIVE, or general customs, always to be found in communities, however barbarous	1
a knowledge of them a means of procuring respect and influence	4
of things and persons, which to be first treated on	17
few and intelligible in small societies	<i>ibid.</i>
when necessarily numerous and extensive	<i>ibid.</i>

Laws

Laws POSITIVE, inconveniencies attending their multiplicity	5
_____ of what kind in Rome at different periods	6
_____ their great increase in Europe since the 14th century	7
_____ of NORMANDY, respecting the marriage of females in wardship	143
_____ of ENGLAND, advantages attending a knowledge of them	11
_____ what required by them in transferring possessions	83
_____ its maxim respecting the dividing of lands by will	160
_____ how enacted	237
_____ their ancient method of passing	<i>ibid.</i>
_____ their tendency to promote liberty	255
_____ alterations introduced in them by Henry II.	315
Lawyers	5
Laymen, how far exercising ecclesiastical discipline	93
_____ tythes granted to them in fee	98
_____ by what means possessed of lands discharged of tythes	101
Legates of Rome	92
Leinster, county palatine of	221
Letters Patent for creating of Peers	210
_____ when took place	213
_____ grants by them how forfeited	214, 215
_____ anciently called Chartæ Regis	332
_____ repealable by the Lord Chancellor	<i>ibid.</i>
Lex Terræ, what	386
Licences to marry	137
Liberty of the subject, how advanced	340
_____ how ascertained	862
L;ttleton	18, 19, 68, 82, 128, 136, 183, 245, 249
Livery and seizen	65, 67
Locke, Mr.	16
Longchamp Archbishop of Canterbury	360
Lords feudal, their power over minors respecting marriage	143
_____ respect paid by them to the person of their King	188
_____ their power over their villeins	244, 253
_____ of parliament in England, their rank	206
_____ created by writ, or letters patent	210
_____ privilege to their eldest sons	212
_____ their titles extinct on surrender	215
_____ their quality as noblemen	26
_____ spiritual	222
_____ lay, their form of trial	224
Lombards	7
Lupus Hugh	220
Lycurgus	5, 6

M

	Page.
M ARKHAM, Sir John	401
Maud	306, 308, 309
Magna Charta specifies the quantum to be paid in relief	121, 285
_____ misconstrued in the right of Lords to the disposal of minor heirs in marriage	143
_____ restrains the alienation of lands	165
_____ its designs	170
_____ abolishes the right of talliage	170, 188, 192
_____ summons to parliament settled thereby	208
_____ its regulations of fines in the King's Court	273
_____ abolishes the removal of the courts of justice	339
_____ commentary thereon	275, to the end
Manors, how distributed by William the Conqueror to his followers	180
Marriages	146
Marshal Earl, of England	81
Maritime court, see Admiralty	
Mascon, council of	97
Master of the Rolls	338
Masters in Chancery	337
_____ empowered to frame new writs	<i>ibid.</i>
Maxim of Law	334, 370
Measures and weights	382
Meath, county palatine of	221
Merchant stranger	191, 414
_____ denizen	<i>ibid.</i>
_____ enemies	415
Military system (Old) its influence on law	7
_____ power, danger of its subverting the civil and legal authorities	105
_____ benefices, their rise among the Saxons	284
_____ tenures, their service lightened by Henry II.	314
_____ abolished by Charles II.	314
_____ courts	392
Minor heirs male, when deemed of age	136
_____ in chivalry, when deemed of age	137
_____ in socage, when deemed of age	141
_____ female, in chivalry, when deemed of age	137
_____ their marriages how controuled by their Lords	142
_____ when released from wardship	145
Mittimus, essentials to render it legal	402

I N D E X.

	Page.
Modus, payment of tythes by a _____	441
Monarchy of France _____	62, 63
_____ of England, its nature ascertained by the feudal laws	20
_____ how changed, by estates becoming hereditary	187
Monasteries, the firmest support of papal power _____	92, 98
_____ tythes improperly applied to their use _____	98
_____ raised on the suppression of the secular clergy _____	100
Money, its present decreased value _____	77
Monopolies _____	203, 204
Montesquieu _____	4, 33, 37, 43, 60, 196
Moses _____	6, 18
Mowbray, Lord _____	212
Murder, why not punished with death among the ancient Germans	46
_____ how punished by the Saxons _____	275

N

N E I F _____	247, 251, 253
Nisi Prius, Justices of _____	271
Norfolk, Earl of, his dispute with Edward I. _____	79
Northern nations become formidable to the Roman empire _____	49
Notorieties of a fact, how regarded in feudal grants _____	67

O

O A T H of fealty, from whence to be traced _____	36
_____ taken by the Saxons _____	283
Officers of Courts where to be sued _____	345
Officina brevium _____	333
Oleron, laws of _____	361
Oligarchy introduced into England _____	201
Ordeal trial among the Franks _____	43
_____ continued after the Norman conquest _____	45
Ormond, Earl of _____	222
_____ Duke of _____	146
Overbury, Sir Thomas _____	408
Outlawry _____	388
_____ proclamation to be made by statute 31st Elizabeth	390

P

P AIS des coutumes	_____	_____	_____	59
_____ de loi ecrite	_____	_____	_____	<i>ibid.</i>
Pares curiæ	_____	_____	65, 66, 106, 128, 131	
Paris, Matthew	_____	_____	_____	205, 207
Parliament of England, its ancient constitution	_____	_____	_____	207, 213, 223, 234
_____ its judicature	_____	_____	_____	346, 347
Patron, lay, his interest in presentative advowsons	_____	_____	_____	90
_____ invested with donatives by grants from the Pope	_____	_____	_____	92
_____ possessed a power of deprivation	_____	_____	_____	93
Peer, see Lords of Parliament				
Peers, who are her peers	_____	_____	_____	385
Pelagius	_____	_____	_____	158
Pembridge, Sir Richard	_____	_____	_____	407
Pepin	_____	_____	_____	124
Persian empire	_____	_____	_____	49
Pembroke, Earl of	_____	_____	_____	373
Philip of France	_____	_____	_____	362, 367
Plantagenets	_____	_____	_____	229
Pleas of the crown	_____	_____	_____	327
Pole, Michael de la	_____	_____	_____	213
Popes, see Bishops of Rome				
<i>Poffe</i> of the county	_____	_____	_____	317
Possessions, corporeal	_____	_____	_____	82
_____ incorporeal	_____	_____	<i>ibid.</i> 86, 96,	105
Pounds overt and covert	_____	_____	_____	114
Precedence of Peers, how settled by parliament	_____	_____	_____	216
Primogeniture	_____	_____	_____	151
Prisage of wines	_____	_____	_____	81
Privileges of the subject, whence derived	_____	_____	_____	20
_____ of the distinct parts of the legislature	_____	_____	_____	237
Privileged persons, how to be sued	_____	_____	_____	335
Proclamations royal, when and how far legal	_____	_____	_____	202
_____ conduct of Henry VIII. relative to them	_____	_____	_____	203
_____ their force in the reign of Eliz.	_____	_____	_____	<i>ibid.</i>
_____ baneful consequences attending the arbitrary use of them	_____	_____	_____	<i>ibid.</i>
Professors of Laws	_____	_____	_____	16
Property, its division	_____	_____	_____	40
_____ of lands, where lodged by the Franks	_____	_____	_____	41
Proviforship	_____	_____	_____	374
Provosts	_____	_____	_____	230

Punishments inflicted by the ancient courts of law, for public and private wrongs	274
_____ for false imprisonment	404
Purbeck, Lord	214
Purchases, new, how descendable	159
Purveyance for the King	279, 280

Q

QUO Warranto, writ of	327
-----------------------	-----

R

RACHAT, or Repurchase	122
Raleigh, Sir Walter	410
Ranks of the people in the Saxon times	276
Ravishment of wards	146
Record, matter of	334
Records of France, lost at the battle of Poitiers	339
Recognizance	171, 335
Rectorial tythes, see Tythes	
Register of writs	336
Refuting the fief	160
Reliefs or fines	118
_____ wherein burdosome to the tenant	120
_____ altered by Henry II.	315
_____ fixed by Magna Charta	121
_____ and heriots, their difference	281
Remainder, derived from a reversion	106
Rent charges	110
Replevin	115
Reversion, right of, in land	106
_____ fealty and service incidental thereto	107
_____ on contingency	<i>ibid.</i>
Richard I.	359, 361
Richard II.	200, 201
Right of entry for possession	67, 73
_____ action	<i>ibid.</i>
Rome, its famous academies	10
_____ taken by the Goths	51
Roman imperial law	23

	Page.
Roman empire	48
emperors	205
estates	58
patron and client	23, 24
Romans, their policy respecting conquered nations	27
become socage tenants to the church	60
their condition under the Franks	123

S

S ALIC Law	59
Sergeantry, grand	78
various kinds	80
the rank capable of performing it	<i>ibid.</i>
for what purposes granted	81
butlerage held thereby in the family of Ormond	<i>ibid.</i>
PETTY	82
Satisfaction for petty crimes, how regulated by the Franks	47
Saxons, the nature of their primitive laws	7
their government in England, how far feudal	39, 233, 265
admit the ordeal trial in determining causes	45
the authority of their kings, whence derived	197, 198, 256
their courts of law	269, 273
method of trial therein	273, 274
punishments inflicted	275
nature of their tenures	277, 288
Scire facias, writ of	240, 332
Scotland, method of studying the law there	22
its parliament not divided into two houses	223
Seal, used in the first written instruments	68
Sealing of instruments, why more strictly authenticating them than signing	296
Seignory	105, 196
Sergeants at law	340
Service from a tenure, how dependant on the nature of the grant	107
when required by the lord	<i>ibid.</i>
rent	108
made rent seck by statute Edw. I.	109
Sharrburn Edwin, his lands restored by William the Conqueror	287
Sheriffs, their power in making replevins	115
method of proceeding thereon	<i>ibid.</i>
appointed to restrain the power of the Earls	219
nature of their court	269
Sheriffs,	

I N D E X.

	Page.
Sheriffs, nature of their court altered by William the Conqueror	445
their ignorance of law	295
Socage tenures, their increased value	322
Socage tenants	78
nature of the grants to them	54, 244, 314
subject to distress instead of forfeiture	57
relief paid by them to their lords	108
lands granted for life	121
free and common	65
petty sergeanty	81
its derivation.	82
Society political, for what purposes instituted	77
the obligations which it lays on individuals	1
Sons, the inheritance obtained by the eldest	<i>ibid.</i>
succeeded equally to the father	151
Spaniards	149
Special verdict	26
Spelman, Sir Henry	387
Statute of Ethelwolf	16, 218, 281
Alfred	99
Edgar	<i>ibid.</i>
Edward I. quia emptores terrarum	109, 162, 165, 418
Edward I. de donis	133
31 Edward I.	232
17 Edward II. de prerogativa regis	165
for compounding a Knight's fee	228
of Marlebridge	112, 114, 115, 375
respecting knighthood conferred on minors	137
of Merton	144, 375
Westminster I.	145, 401
Westminster II.	146, 176, 337
Mortmain	165
Merchant	170
of writ of elegit	172
Elizabeth concerning bankrupts	173
concerning outlawry	391
of William the Conqueror	288, 289
8 Henry VI. chap. 5.	236
Poynings	241
28 Henry VIII. suspending Poyning's law	242
Philip & Mary respecting Ireland	<i>ibid.</i>
ancient and present; manner of enacting them	237, 238
	Stewardship,

	Page.
Stewardship, High, of England	84
Stephen, King	309
Stilicho	50, 51
Strange, Baron of	212
Strongbow	221
Stuart, house of	201
Study of the law in Great Britain	9
proper method	10
causes of difficulty therein	15, 16
reasons for beginning with the law of things, instead of that of persons	17
promoted by fixing the courts of justice	340
Substitute, when allowed in aid from a vassal	72
Subvassals	39, 65, 73
Succeſſion royal, by deſcent	151, 152, 153, 158
collateral	153, 154, 155
to eſtates, how rendered hereditary	118, 122, 159
of ſons to the father	149

T

T ACITUS	31, 32, 33, 35, 36, 37, 41, 42
Talliage	79, 169, 191, 192
Taxes, how aſſeſſed	192
Tenants by ſufferance	57
allodial	123
not allowed to alienate	130
copyhold, whence derived	259, 260
when ſubject to fines to their lord	261
their power of alienation, how reſtricted	<i>ibid.</i>
in frankalmoine or free alms	291
in capite	417
Toga virilis, what	40
Tenures feudal, ſec feifs	
ſubject to fealty	65
military, how forfeited	73
when aboliſhed	76
of the crown, obligations therefrom	206
hereditary	73
the nature of thoſe now held	77
Saxon	277

Tenures

	Page.
Tenures in ancient demefne	244, 263, 313
Temple, the, granted to the practitioners of the law	340
Thanes	276, 281
Tipperary, its palatinate	222
Tythes introduced among the Franks by Charles Martel	61
when established by law	88
allocated from the bishop to the parish priest	91
an incorporeal benefice	95
originally what	96
first introduced in Egypt	<i>ibid.</i>
how distributed there	<i>ibid.</i>
how rendered compulsory	<i>ibid.</i>
forgeries concerning them	97
divided into rectorial and vicarial	98
how paid in England during the heptarchy	99
when made payable to the parish priest	100
monastery lands exempted from them	101
settled by a modus	<i>ibid.</i>
Cranmer's intention concerning them	102
when established in England on the footing they now stand	<i>ibid.</i>
their three kinds	103
Transportation	407
Traders and artizans admitted into the general assembly of the people in the thirteenth century	39
Treasurer of England	272
presided in the Exchequer court	326
Trinoda necessitas	279, 288
Trial, methods of, among the old Germans	42
received into England	45
by witnesses	45
ordeal, see Ordeal	
by negative proof	45
by battle	273
by grand assize	274
by juries	<i>ibid.</i>
by deposition	386, 387, 397
Tudor, house of	201, 229

U

	Page.
V ANDALS	51
Vassals (military) their connections with their king	36
_____ bound by an oath of fealty for life	63
_____ immediate of the king, who	73
_____ now represented by the parliament	169
Villein-land	246
Villein, a name given to slaves and servants	53
_____ nature of the grants made to them	57
_____ whom reduced to that state	192
_____ feudal	244, 245
_____ their property	247
_____ when allowed to bring actions against their lord	250
_____ their right of purchasing land	248
_____ power of their lords over their property	249
_____ causes of their decrease in England	258
Villeinage, how destroyed and suspended	253
Ulster, county palatine of	221
Uncle, the heir of his grand nephew	154
University of Dublin, its situation for the study of the law	15
_____ of Oxford	13
Universities	10, 16
Voucher, appearance upon	72
Uses, doctrine of	166, 167, 262
Ufury	6
Uses and Trust	423

W

W AGER of the law	45, 273, 383
Wages to members of parliament, how to be levied	113
Wardship in chivalry, laws respecting it	135, 139
_____ in focagè	140
_____ how differing from wardship in chivalry	141
_____ obligations on the guardian	142
_____ penalty on marriage without the consent of the lord	144
_____ its evils	146
_____ not comprehended in Saxon tenures	284
Warranty	131
_____ collateral	182

Warwick;

I N D E X.

	Page
Warwick, Earl of	146
Waste, committing of	74
William the Conqueror	152, 180, 233, 281, 285, 288, 290, 291, 293, 294, 296, 297
Rufus	304
Wills and Testaments, unknown to the Franks	41
lands not devisable thereby	160
how rendered devisable	166
required to be in writing	167
further requisitions	168
copyholds not devisable thereby	262
Wiltshire, John	80
Wittenagmots of the Saxons	198, 232, 256
Wright	288
Writ of chancery to recover by replevin	115
election to parliament	210, 211
error	220, 343
nativo habendo	252
affize	257, 258
false judgment	323
scire facias	240, 332
original	336
by a master in chancery	337
de odio & atia	382
of capias	389
alias	<i>ibid.</i>
pluries	<i>ibid.</i>
exigent	<i>ibid.</i>
entry	398
de homine replegiando	404