

1733
THE
COMMENTARIES
OF

Sir WILLIAM BLACKSTONE, Knt.

ON THE
LAWS AND CONSTITUTION

OF
ENGLAND;

CAREFULLY ABRIDGED,
IN A NEW MANNER,

AND

Continued down to the present Time :

WITH NOTES,
CORRECTIVE AND EXPLANATORY.

By *WILLIAM CURRY,*
OF THE INNER TEMPLE.

121
5769

"It is incumbent upon every Man to be acquainted with the Laws; lest he incur the Censure, as well as the Inconvenience, of living in Society without knowing the Obligations it lays him under."

INTROD. CCM.

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1796.

TO
THE HONORABLE
SIR FRANCIS BULLER, BART.
ONE OF THE JUSTICES
OF
HIS MAJESTY'S COURT OF COMMON PLEAS,
THE FOLLOWING WORK
IS
(BY HIS OBLIGING PERMISSION)
MOST RESPECTFULLY DEDICATED,
AS A MARK
OF THE HIGH SENSE ENTERTAINED
BY THE EDITOR,
OF
HIS EXALTED CHARACTER AS A LAWYER,
AND A JUDGE.

P R E F A C E.

THE Abridgement now submitted to the candour of the Profession, and of the Public, consists of SELECTIONS of the most material and essential parts of the justly celebrated Commentaries of Sir Wm. Blackstone, on the Laws and Constitution of England; in preparing which, my object has been to preserve 1. Such parts as seemed necessary to be known by every individual, as a member of the community, and, 2. Such as I apprehended the professional student would wish, in a more particular manner, to inculcate and remember,

By the method adopted of selecting entire passages, in the very words of the author, I imagined I should inevitably acquire the important advantage of preserving the freedom, and spirit of the original, without any possible danger of misrepresenting its genuine sense and construction; an advantage which I could not hope to attain in the common mode of abridgement.

In the NOTES I have intended to advert to the alterations which have been effected in the legal accuracy of the text, by statutes and cases passed,

or decided since it received the last corrections of the author, in which I hope that no material omission will be imputed to me. I have also in the very few instances where any position in the text seemed, from its mode of statement either to comprehend cases to which it in strictness did not extend, or to exclude those to which it in truth applied, subjoined such remarks as I thought necessary to prevent the student from inferring an erroneous conclusion.

~~The utility of a selection of this sort~~ it is perhaps unnecessary to insist upon. No adequate benefit can be derived from the Commentaries of Sir Wm. Blackstone, unless by frequent and attentive perusals; but the student, whatever may be his industry, will find it no easy matter to return with ardor and alertness (without which he will read to little purpose) to a second and a third perusal of the same volumes, protracted too as they now are (though very properly) by long and numerous Annotations. And if this be true of a professional student of the laws, how much more forcibly will it apply to those who are occupied in the various pursuits of agriculture and commerce; but these are equally liable to the severe and just animadversions of the law, if they infringe, however inadvertently, upon its ordinances.

AT a time moreover, when the science of legislation and government is so generally and so warmly

discussed, a familiar promulgation of those laws which form the body and bulwark of our glorious and enviable constitution, seems peculiarly expedient and desirable; by which I trust it will be perceived that the laws of England require only to be known, to be respected and revered; and such reverence will naturally induce every one to unite, in one voice, to preserve them inviolate; and that in the regular and only constitutional way which the law itself has delineated.

And here I cannot but remark that these desirable ends might be advantageously promoted, by introducing such a compendium of our laws into the upper forms of our public schools, for which the familiar manner of the Commentaries are admirably adapted: it would imprint upon the juvenile mind, at a period when most easily susceptible of impressions, a veneration for the Laws and Constitution of his Country, and furnish him with a guard against the dangerous principles of innovation and dissoluteness, which unfortunately are at present so industriously propagated, by the enemies of rational freedom. And it would, also, afford him a protection in the common affairs of life, as well against his own natural inactivity, as the fraud and artifices of others.

I should be doing injustice to my own feelings, to conclude without acknowledging the obliga-

tions I am under to Mr. *Christian*, whose truly elegant, and useful Annotations, have afforded me not only much entertainment and improvement, but also some valuable hints in respect to recent inaccuracies of the text, which might otherwise have escaped so young an editor.

The *Errata*, which the reader will perceive at the end of the volume, may, I fear, be thought not a little numerous; but the great distance of my residence from the press, made it impossible for me to have that frequent communication with the publisher which was necessary, in order to render it as free from errors as I could wish.

With, however, all its imperfections, I cheerfully submit it to the ordeal of a generous Public; particularly relying on the candour and indulgence of the Profession, not to pass too critical a scrutiny on endeavours, which, whatever may be their success, have been exerted with disinterested views for the public service.

Gosport,
6th Nov. 1796.

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E R R A T A.

B. I. Ch. II. *for* PARLIAMENT *read* HOUSE OF COMMONS.

Page 15. *n.* (a) *for* gentium *read* gentibus.

18. line 9. *for* rigut *read* right.

Ibid. *n.* (a) *for* 30 Geo. III. *read* 36.

36. ~~n. (a) *for* vivum *read* visum.~~

38. *for* Didimus *read* Dedimus

Ibid. *for* c. 11. *read* c. 18

Ibid. *n.* (a) *for* son *read* sons.

61. *n.* (b) *for* names *read* named.

62. l. 18. *for* session *read* cession.

78. *n.* (a) *for* she *read* he.

85. last l. *for* then *read* there.

116 *for* diffinition *read* definition

118 l. 17. *for* these *read* there.

120 *for* alien *read* an. ne.

154 *n.* (a) *for* and *read* an.

Ibid. *n.* (b) *for* covert *read* coverts.

375. l. 8. *for* these *read* there.

434. last l. *for* frcery *read* sorcery.

458. *for* ch. viii. *read* ch. viii and ix.

INTRODUCTION.

OF THE LAWS OF ENGLAND.

THE municipal law of England, or the rule of civil conduct prescribed to the inhabitants of this kingdom, may with sufficient propriety be divided into two kinds; the *lex non scripta*, the unwritten, or common law; and the *lex scripta*, the written, or statute law.

The *lex non scripta*, or unwritten law, includes not only *general customs*, or the common law properly so called, but also the *particular customs* of certain parts of the kingdom; and likewise those *particular laws* that are by custom observed only in certain courts and jurisdictions.

When I call these parts of our law *leges non scriptæ*, I would not be understood as if all those laws were at present merely *oral*, or communicated from the former ages to the present solely by word of mouth; but because their original institution and authority are not set down in writing, as acts of parliament are, but they receive their binding power, and the force of laws, by long and immemorial usage, and by their universal reception throughout the kingdom.

This unwritten, or common law, is properly distinguishable into three kinds: 1. *General customs*; which are the universal rule of the whole kingdom, and form the common law, in its stricter and more usual signification. 2. *Particular customs*; which for the most part affect only the inhabitants of particular districts. 3. *Certain particular laws*;