Bell, Robert, 1732-1784.


[Philadelphia] : [Robert Bell], [1771]

4, 8 pages, 2 leaves, 4 unnumbered pages, 2 leaves, 26 unnumbered pages, 1 leaf ; 23 cm.

Sample book. Specimen title page of Blackstone's Commentaries says "reprinted from the London copy." There was no London copy until 1774.


Bell's "Address to the subscribers" to Robertson's History, dated April 4, 1771, discusses the "infracktion on the monopoly of literary property in Great-Britain." Bell attempts to justify the printing of pirated Irish editions of English works, and supports his statements with extracts from the fourth edition of the Commentaries.

On binding: Bills [i.e. Bell's] prospectus A.D. 1771.

"Eller KK"

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humble servant,

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A Specimen of the Type and Paper of this American Edition; being Extracts from

Hume's History of England,

CHAP. I.

The Britains,—Romans,—Saxons,—the Heptarchy.—The Kingdom of Kent—of Northumberland—of East Anglia—of Mercia—of Essex—of Sussex—of Wessex.

The Britains.

The curiosity entertained by all civilized nations, of enquiring into the exploits and adventures of their ancestors, commonly excites a regret that the history of remote ages should always be so much involved in obscurity, uncertainty, and contradiction. Ingenious men, possessed of leisure, are apt to pursue their researches beyond the period in which literary monuments are framed or preferred, without reflecting, that the history of past events is immediately lost or disfigured when intrusted to memory or oral tradition, and that the adventures of barbarous nations, even if they were preferred, could afford little or no entertainment to those born in a more cultivated age. The convulsions of a civilized state usually compose the most instructive and most interesting part of its history; but the sudden, violent, and unprepared revolutions, incident to barbarians, are too much guided by care.
price, and terminate so often in cruelty, that they
disgrat us by the uniformity of their appearance;
and it is rather fortunate for letters, that they are
buried in silence and oblivion. The only certain
means, by which means nations can indulge their
curiosity in searches concerning their remote
origin, is to consider the language, manners and
customs of their ancestors, and to compare them
with those of the neighbouring nations. The
fables which are commonly employed to supply
the place of true history, ought entirely to be
disregarded; and if any exception be admitted to
this general rule, it can only be in favour of the
ancient Greek fictions, which are so celebrated
and so agreeable, that they will ever be the ob-
jects of the attention of mankind. Neglecting
therefore, all traditions or rather tales concem-
ing the more early history of Britain, we shall only
consider the state of the inhabitants, as it appeared
to the Romans on their invasion of this country:
We shall briefly run over the events, which att-
tended the conquest made by that empire, as be-
longing more to Roman than British story: We
shall hasten thro' the obscure and unintelligible
period of Saxon annals: And shall reserve a more
full narration for those times, when the truth is
both so well ascertained, and so complete as to
promise some entertainment and instruction to
the reader.

All antient writers agree in representing the
first inhabitants of Britain as a tribe of the Gauls
or Celte, who peopled that island from the neigh-
bouring continent. Their language was the same,
their manners, their government, their super-
tition; varied only by those small differences, which
time, or a communication with the bordering na-
tions must necessarily introduce. The inhabitants
of Gaul, especially in those parts which ly con-
tiguous to Italy, had acquired, from a commerce

with their southern neighbours, some refinement
in the arts, which gradually diffused themselves
northwards, and spread but a very faint light
over this island. The Greek and Roman navi-
gators or merchants (for there were scarce any
other travellers in those ages) brought back the
most shocking accounts of the ferocity of the
people, which they magnified, as usual, in order
to excite the admiration of their countrymen.
The south-east parts, however, of Britain had al-
dready, before the age of Cæsar, made the first
and most requisite step towards a civil settle-
ment; and the Britains, by tillage and agriculture, had
there encreased to a great multitude. The other
inhabitants of the island still maintained them-
selves by pasturage: They were clothed with
skins of beasts: They dwelt in huts, which they
reared in the forests and marshes, with which the
country was covered: They shifted easily their
habitation, when actuated either by the hopes of
plunder, or the fear of an enemy: The conve-
nience of feeding their cattle was even a sufficient
motive for removing their flocks: And being ig-
norant of all the refinements of life, their wants
and their possessions were equally scanty and li-
mitcd.

The Britains were divided into many small
nations or tribes; and being a military people,
whose sole property was their sword and their
cattle, it was impossible, after they had acquired
a relish of liberty, for their princes or chieftains
to establish any despotic authority over them.
Their governments, tho' monarchical, were
free, as well as those of all the Celtic nations; and
the common people seem even to have enjoyed
more liberty among them, than among the na-
tions.

1 Cæsar, lib. 4.
2 Dio. Cassius, lib. 75.
tions of Gaul, from whom they were descended. Each state was divided into factions within itself. It was agitated with emulation towards the neighbouring states: And while the arts of peace were yet unknown, wars were the chief occupation, and formed the chief object of ambition among the people.

The religion of the Britains was one of the most considerable parts of their government; and the Druids, who were their priests, possessed great authority among them. Besides ministering at the altar, and directing all religious duties, they presided over the education of youth; they were endowed with an immunity from wars and taxes; they enjoyed both the civil and criminal jurisdiction; they decided all controversies amongst states as well as private persons, and whoever refused to submit to their decree was exposed to the most severe penalties. The sentence of excommunication was denounced against him: He was forbid access to the sacrifices or public worship; He was debarred all intercourse with his fellow-citizens, even in the common affairs of life: His company was universally shunned, as profane and dangerous: He was refused the protection of law: And death itself became to him an acceptable relief from the misery and infamy to which he was exposed. Thus, the bands of government, which were naturally loose among that rude and turbulent people, were happily corroborated by the terrors of their superstition.

* * *

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INTRODUCTION.

SECTION THE FIRST.

ON THE STUDY OF THE LAW.*

MR. VICE-CHANCELLOR, AND GENTLEMEN OF THE UNIVERSITY,

THE general expectation of so numerous and respectable an audience, the novelty, and (I may add) the importance of the duty required from this chair, must unavoidably be productive of great diffidence and apprehensions in him who has the honour to be placed in it. He must be sensible how much will depend upon his conduct in the infancy of a study, which is now first adopted by public academical authority; which has generally been reputed (how-

ever unjustly) of a dry and unfruitful nature; and of which the theoretical, elementary parts have hitherto received a very moderate share of cultivation. He cannot but reflect that, if either his plan of instruction be crude and injudicious, or the execution of it lame and superficial, it will cast a damp upon the farther progress of this most useful and most rational branch of learning; and may defeat for a time the public-spirited design of our wife and munificent benefactor. And this he must more especially dread, when he feels by experience, how unequal his abilities are (unassisted by preceding examples) to complete, in the manner he could with, so extensive and arduous a task; since he freely confesses, that his former more private attempts have fallen very short of his own ideas of perfection. And yet the candour he has already experienced, and this last transcendent mark of regard, his present nomination by the free and unanimous suffrage of a great and learned university, (an honour to be ever remembered with the deepest and most affectionate gratitude) these testimonies of your public judgment must entirely supercede his own, and forbid him to believe himself totally insufficient for the labour at least of this employment. One thing he will venture to hope for, and it certainly shall be his constant aim, by diligence and attention to atone for his other defects; esteeming, that

§ 1. Of the Law. that the best return, which he can possibly make for your favourable opinion of his capacity, will be his unwearied endeavours in some little degree to deserve it.

The science thus committed to his charge, to be cultivated, methodized, and explained in a course of academical lectures, is that of the laws and constitution of our own country; a species of knowledge, in which the gentlemen of England have been more remarkably deficient than those of all Europe besides. In most of the nations on the continent, where the civil or imperial law under different modifications is closely interwoven with the municipal laws of the land, no gentleman, or at least no scholar, thinks his education is completed, till he has attended a course or two of lectures, both upon the institutes of Justinian and the local constitutions of his native soil, under the very eminent professors that abound in their universities. And in the northern parts of our own island, where also the municipal laws are frequently connected with the civil, it is difficult to meet with a person of liberal education, who is destitute of a competent knowledge in that science, which is to be the guardian of his natural rights, and the rule of his civil conduct.
Nor have the imperial laws been totally neglected even in the English nation. A general acquaintance with their decisions has ever been deservedly considered as no small accomplishment of a gentleman; and a fashion has prevailed, especially of late, to transport the growing hopes of this island to foreign universities in Switzerland, Germany, and Holland; which, though infinitely inferior to our own in every other consideration, have been looked upon as better nurseries of the civil, or (which is nearly the same) of their own municipal law. In the mean time, it has been the peculiar lot of our admirable system of laws, to be neglected, and even unknown, by all but one practical profession; though built upon the soundest foundations, and approved by the experience of ages.

Far be it from me to derogate from the study of the civil law, considered (apart from any binding authority) as a collection of written reason. No man is more thoroughly persuaded of the general excellence of its rules, and the usual equity of its decisions, nor is better convinced of its use as well as ornament to the scholar, the divine, the statesman, and even the common lawyer. But we must not carry our veneration so far as to sacrifice our Alfred and Edward to the manes of Theodosius and Justinian: we must not prefer the edict of the praetor, or the rescript of the Roman emperor, to our own immemorial customs, or the sanctions of an English parliament; unless we can also prefer the despotic monarchy of Rome and Byzantium, for whose meridians the former were calculated, to the free constitution of Britain, which the latter are adapted to perpetuate.

Without detracting therefore from the real merit which abounds in the imperial law, I hope I may have leave to assert, that if an Englishman must be ignorant of either the one or the other, he had better be a stranger to the Roman than the English institutions. For I think it an undeniable position, that a competent knowledge of the laws of that society, in which we live, is the proper accomplishment of every gentleman and scholar; an highly useful, I had almost said essential, part of liberal and polite education. And in this I am warranted by the example of ancient Rome; where, as Cicero informs us (a), the very boys were obliged to learn the twelve tables by heart, as a carmen necessarium or indispensable lesson, to imprint on their tender minds an early knowledge of the laws and constitutions of their country.

(a) De Legg. 2. 21.

But
But as the long and universal neglect of this study, with us in England, seems in some degree to call in question the truth of this evident position, it shall therefore be the business of this introductory discourse, in the first place, to demonstrate the utility of some general acquaintance with the municipal law of the land, by pointing out its particular uses in all considerable situations of life. Some conjectures will then be offered with regard to the causes of neglecting this useful study: to which will be subjoined a few reflections on the peculiar propriety of reviving it in our own universities.

And, first, to demonstrate the utility of some acquaintance with the laws of the land, let us only reflect a moment on the singular frame and policy of that land, which is governed by this system of laws. A land, perhaps the only one in the universe, in which political or civil liberty is the very end and scope of the constitution (b). This liberty, rightly understood, consists in the power of doing whatever the laws permit (c), which is only to be effected by a general conformity of all orders and degrees to those equitable rules of action, by

(b) Montesqu. Esp. L. i. 11. c. 5.
(c) Facultas ejus, quod velique facere libet, nihil quidem, aut juris pra-libetur. Leg. i. 3. 1.

which
PART I.
Of the general Characteristics of human Nature.

PART II.
Of the History of rude Nations.

PART III.
Of the History of Policy and Arts.

PART IV.
Of Consequences that result from the Advancement of Civil and Commercial Arts.

PART V.
Of the Decline of Nations.

PART VI.
Of Corruption and political Slavery.
A Specimen of the Type and Paper of this American Edition; being Extracts from Ferguson’s Essay on the History of Civil Society.

Of the Manners of Polished and Commercial Nations.

MANKIND, when in their rude state, have a great uniformity of manners; but when civilized, they are engaged in a variety of pursuits; they tread on a larger field, and separate at a greater distance. If they be guided, however, by similar dispositions, and by like suggestions of nature, they will probably, in the end, as well as in the beginning of their progress, continue to agree in many particulars; and while communities admit, in their members, that diversity of ranks and professions which we have already described, as the consequence of the foundation of commerce, they will resemble each other in many effects of this distribution, and of other circumstances in which they nearly concur.

Under every form of government, statesmen endeavour to remove the dangers by which they are threatened from abroad, and the disturbances which molest them at home. By this conduct, if successful, they in a few ages gain an ascendant for their country; establish a frontier at a distance from its capital; they find, in the mutual desires of tranquility, which come to possess mankind, and in those public establishments which tend to keep the peace of society, a respite from foreign wars, and relief from domestic disorders. They learn to decide every contest without tumult, and to secure, by the authority of law, every citizen in the possession of his personal rights.

In this condition, to which thriving nations aspire, and which they in some measure attain, mankind having laid the basis of safety, proceed to erect a superstructure suitable to their views. The consequence is various in different states; even in different orders of men of the same community; and the effect of every individual corresponds with his station. It enables the statesman and the soldier to settle the forms of their different Procedure; it enables the practitioner in every profession to pursue his separate advantage; it affords the man of pleasure a time for refinement; and
and the speculative, leisure for literary conversation or study.

In this scene, matters that have little reference to the active pursuits of mankind, are made subjects of inquiry, and the exercise of sentiment and reason itself becomes a profession. The songs of the bard, the harangues of the statesman and the warrior, the tradition and the story of ancient times, are considered as the models, or the earliest production, of so many arts, which it becomes the object of different professions to copy or to improve. The works of fancy, like the subjects of natural history, are distinguished into classes and species; the rules of every particular kind are distinctly collected; and the library is stored, like the warehouse, with the finished manufacture of different artists, who, with the aids of the grammarian and the critic, aspire, each in his particular way, to instruct the head, or to move the heart.

Every nation is a motley assemblage of different characters, and contains, under any political form, some examples of that variety, which the humours, tempers, and apprehensions of men, so differently employed, are likely to furnish. Every profession has its point of honour, and its system of manners; the merchant his punctuality and fair dealing; the statesman his capacity and address; the man of society, his good-breeding and wit. Every faction has a carriage, a dress, a ceremonial, by which it is distinguished, and by which it supersedes the national character under that of the rank, or of the individual.

This description may be applied equally to Athens and Rome, to London and Paris. The rude or the simple observer would remark the variety he saw in the dwellings and in the occupations of different men, not in the aspect of different nations. He would find, in the streets of the same city, as great a diversity, as in the territory of a separate people. He could not pierce through the cloud that was gathered before him, nor see how the tradesman, mechanic or scholar, of one country, should differ from that of another. But the native of every province can distinguish the foreigner; and when he himself travels, is struck with the aspect of a strange country, the moment he passes the bounds of his own. The air of the person, the tone of the voice, the idiom of language, and the strain of conversation, whether pathetic or languid, gay or severe, are no longer the same.

Many such differences may arise among polished nations, from the effects of climate, or from sources of fashion, that are still more hidden or unobserved; but the principal distinctions on which we can rest, are derived from the part a people are obliged to act in their national capacity; from the objects placed in their view by the state; or from the constitution of government, which prescribing the terms of society to its subjects, has a great influence in forming their apprehensions and habits.

The Roman people, defined to acquire wealth by conquest, and by the spoil of provinces; the Carthaginians, intent on the returns of merchandize, and the produce of commercial settlements, must have filled the streets of their several capitals with men of a different disposition and aspect. The Roman held aloft his sword when he wished to be great, and the state found her armies prepared in the dwellings of her people. The Carthaginian retired to his counter on a similar project; and, when the state was alarmed, or had resolved on a war, lent of his profits to purchase an army abroad.

The member of a republic, and the subject of a monarchy, must differ; because they have different parts assigned to them by the forms of their country: the one destined to live with his equals, or to contend, by his personal talents and character, for pre-eminence; the other born to a determinate station, where any pretense to equality creates a confusion, and where nought but precedence is studied. Each, when the institutions of his country are matured, may find in the laws a protection to his personal rights; but those rights themselves are differently underlaid, and with a different set of opinions, give rise to a different temper of mind. The Republican must act in the state, to sustain his pretensions; he must join a party in order to be safe; he must lead one in order to be great.
Extracts from Ferguson's, &c.

The subject of monarchy refers to his birth for the honour he claims; he waits on a court, to shew his importance; and holds out the ensigns of dependence and favour, to gain him esteem with the public.

If national institutions, calculated for the preservation of liberty, instead of calling upon the citizen to act for himself, and to maintain his rights, should give a security, requiring, on his part, no personal attention or effort; this seeming perfection of government might weaken the bands of society, and upon maxims of independence, separate and estrange the different ranks it was meant to reconcile. Neither the parties formed in republics, nor the courtly assemblies which meet in monarchical governments, could take place, where the sense of a mutual dependence should cease to summon their members together. The resorts for commerce might be frequented, and mere amusement might be pursued in the crowd, while the private dwelling became a retreat for reserve, averse to the trouble arising from regards and attentions, which it might be part of the political creed to believe of no consequence, and a point of honour to hold in contempt.

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ADDRESS, &c.

are useful even in the support of self-evident truths; I hope the candid Reader will have patience to read one, the incontrovertibility of which is universally known.

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For 'tis a Godlike attribute to know.

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are useful even in the support of self-evident truths; I hope the candid Reader will have patience to read one, the incontrovertibility of which is universally known.

IRELAND is a dependent and subordinate kingdom, belonging to Great-Britain: It was not till the year 1730, that a taste for literary knowledge made any considerable progress there; but, ever since the year 1740, this taste has made such rapid and universal progress, among the higher rank of people in Ireland, that, as soon as any new Book appears in London, it is immediately reprinted by the Irish Booksellers in Dublin.

Thus the depressed, I had almost said, the oppressed people of Ireland, hath reprinted two editions of Robertson’s Charles V. three editions of Blackstone’s Commentaries, two editions of the Universal History, one edition of Chambers’s Dictionary, and editions of every valuable Work produced in Great-Britain, without rendering the smallest pecuniary regard either to Authors or to Booksellers.

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For ’tis a Godlike attribute to know.
But, lest the force of truth, on a subject of such importance, as the Mental and Commercial interest of Americans, should be diminished by the inconsequent arbitraris of the Editor, he rejoiceth at this opportunity, of introducing all his Subscribers to an intimacy with that magnificent Oracle of knowledge, the learned Judge Blackstone, whose splendid authority will certainly be acceptable and conclusive.

Extracts from the fourth edition of Blackstone's Introduction to his Commentaries on the Laws of England.

**SECTION IV.**

Of the Countries subject to the Laws of England.

As to Ireland, that is still a distinct kingdom; though a dependent, subordinate kingdom. It was only intituled the dominion or lordship of Ireland, and the king's title was no other than dominus Hiberniae, lord of Ireland, till the thirty-third year of king Henry the eighth; when he assumed the title of King, which is recognized by act of parliament, 35 Hen. VIII. c. 3. But, as Scotland and England are now one and the same kingdom, and yet differ in their municipal laws; so England and Ireland are, on the other hand, distinct kingdoms, and yet in general agree in their laws. The inhabitants of Ireland are, for the most part, descended from the English, who planted it as a kind of colony, after the conquest of it by King Henry the second; and the laws of England were then received and sworn to by the Irish nation, assembled at the council of Lismore. And as Ireland, thus conquered, planted, and governed, still continues in a state of dependence, it must necessarily conform to,

to, and be obliged by, such laws as the superior state thinks proper to prescribe.

***

The isles of Jersey, Guernsey, Sark, Alderney, and their appendages, were parcel of the duchy of Normandy, and were united to the crown of England by the first princes of the Norman line.

***

Besides these adjacent islands, our more distant plantations in America, and elsewhere, are also in some respects subject to the English laws. Plantations or colonies in distant countries, are either such where the lands are claimed by right of occupancy only, by finding them desart and uncultivated, and peopling them from the mother country; or where, when already cultivated, they have been either gained by conquest, or ceded to us by treaties. And both these rights are founded upon the law of nature, or at least upon that of nations. But there is a difference between these two species of colonies, with respect to the laws by which they are bound. For it hath been held, that if an uninhabited country be discovered and planted by English subjects, all the English laws then in being, which are the birthright of every subject, are immediately there in force. But this must be understood with very many and very great restrictions. Such colonists carry with them only so much of the English law, as is applicable to their own situation and condition of an infant colony; such, for instance, as the general rules of inheritance, and of protection from personal injuries. The artificial refinements and distinctions incident to the property of a great and commercial people, the laws of police and revenue, (such especially as are enforced by penalties,) the mode of maintenance for the established clergy, the jurisdiction of spiritual courts, and a multitude of other provisions, are neither necessary nor convenient for them, and therefore are not in force. What shall be admitted and what rejected,
rejected, at what times, and under what restrictions, must, in case of dispute, be decided in the first instance by their own provincial judiciary, subject to the revision and control of the king in council, the whole of whose constitution being also liable to be new-modelled and reformed, by the general superintending power of the legislature in the mother country. But in conquered or ceded countries, that have already laws of their own, the king may indeed alter and change those laws; but, till he does actually change them, the ancient laws of the country remain, unless such as are against the law of God, as in the case of an infidel country. Our American plantations are principally of this latter sort, being obtained in the last century either by right of conquest and driving out the natives (with what natural justice I shall not at present enquire) or by treaties. And therefore the common law of England, as such, has no allowance or authority there; they being no part of the mother country, but distinct (though dependent) dominions. They are subject however to the control of the parliament; though (like Ireland, Man, and the rest) not bound by any acts of parliament, unless particularly named.

These are the several parts of the dominions of the crown of Great-Britain, in which the municipal laws of England are not of force or authority, merely as the municipal laws of England. Most of them have probably copied the spirit of their own law from this original; but then it receives its obligation, and authoritative force, from being the law of the country.

Surely, the precedent of the people of Ireland's reprinting every work produced in London, and the great Lawyer Blackstone's authority concerning the internal legislation of colonies, are demonstrations of the readiness of reprinting any, or every work of excellence in America, without the smallest infringement of the British embargo upon literature.—Is it not enough that their embargo prevents Americans from shipping their manufactures of this kind into Britain.—Would it not be incompatible with all freedom, if an American's mind must be entirely starved and enslaved in the barren regions of fruitless vacuity, because he doth not wallow in immense riches equal to some British Lords, the origin of whose progenitors are lost in the chaos of antiquity?

The Editor hopeth, that the facts above exhibited are sufficient support for Americans, to persevere in reprinting whatsoever books merit their approbation, without leave or licence from the Bibliopolists or Monopolists of Great-Britain; he is therefore determined, as much as possible, to pracitice the advice contained in George Fisher's emphatic lines.

Since to the Pen and Press we mortals owe,
All we believe, and almost all we know,
Go on ye great prefervers of these arts,
Which raise our thoughts and cultivate our parts.

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