

A HISTORY OF ENGLISH LAW

BY

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VOLUME XIII

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*To say truth, although it is not necessary for counsel to know what
the history of a point is, but to know how it now stands resolved, yet it is a
wonderful accomplishment, and, without it, a lawyer cannot be accounted
learned in the law.*

ROGER NORTH



METHUEN & CO. LTD. LONDON

36 Essex Street, Strand, W.C. 2

PREFACE

MORE than a decade has passed since the appearance of volume XII of Holdsworth's great history, and seven years have elapsed since his death. He left his life-work unfinished, but fortunately the entire material for the thirteenth and most of the material for the fourteenth volumes had reached an advanced stage of preparation. On his literary executors has devolved the honourable and congenial task of arranging this mass of material for the press.

Holdsworth's account, in earlier volumes, of certain branches of the law, for instance, conspiracy and maintenance, stretched far into the present century, but in general his final goal for the entire history was the Judicature Act, 1873. The thirteenth volume covers the period from 1793 to the Reform Act, 1832.

The volume is a complete whole, and is all Holdsworth's own, apart from two omissions which his editors have supplied. These are the commentaries on Tidd's *Practice* and Maddock's *Equity*, whose compilation he clearly postponed until too late. His editors have also drawn up a Table of Contents, following, as exactly as possible, the model of earlier volumes.

The subject matter of the volume is a continuation of Part I of Book V, whose title is "the Centuries of Settlement and Reform, 1701-1875: Sources and General Development." Over the greater part of it broods the figure of Jeremy Bentham. Holdsworth sketches the background from which the ideas of Bentham emerged, and then proceeds to give us a full account of his life, work and influence. He then proceeds to discuss some of the other pioneers of philosophic radicalism, notably James Mill, and their chief opponents, outstanding among whom was Coleridge.

Next comes a study of the Political and Constitutional Background, which is divided into three periods, (a) from 1793 to the death of Pitt in 1806, (b) 1806-1815, (c) from 1815 to the Reform Act, 1832. We are presented with a vivid picture of the chief events, and of the parts played by leading politicians, Pitt himself, Fox, Perceval, Liverpool, and especially Brougham,

whose complex character fascinated Holdsworth, and of whom he gives us a prolonged survey.

Then we are introduced to reforms in different branches of the law, and presented with a detailed appraisal of the achievements of such men as Romilly, Mackintosh, Michael Angelo Taylor, C. P. Cooper and Humphreys. This is followed by an exhaustive analysis of contemporary legislation. The study of the professional development of law, equity, and the various subjects of the civilians' practice, with which the volume ends, supplies a vivid reminder of the method which Holdsworth, both as writer and as teacher, persistently employed, of treating legal history as largely dependent on legal biography. A host of names are here passed in review. These belong partly to reporters, partly to writers of text-books, but principally to judges. The greatest judicial figures are, of course, Ellenborough and Tenterden on the common law side, Eldon on the equity side, and Stowell on the civilian side.

Such is, in barest outline, the composition of a volume which will serve to perpetuate the memory of one who was, in life, the greatest exponent of English Law.

The editors are in possession of much, though not, unfortunately, of all the material for the fourteenth volume, which brings the history down to the Judicature Acts, 1873-1875. Part I, on "Sources and General Development" is almost intact: what is missing is the greater portion of Part II, on "The Rules of Law". The manuscript shows, however, that this portion was not intended to be very protracted. The work of preparing the available material for press is going forward.

The heartiest thanks of the editors are due to Dr. J. B. Jaworczykowski, of University College, Oxford, and Leon Fellow, London University, who shouldered the very arduous task of the compilation of the Indices, and Tables of Cases and Statutes. The labour, moreover, expended by him in checking references was prodigious, whereby he placed the editors yet further in his debt.

A. L. GOODHART
H. G. HANBURY

OXFORD, 1952

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