Law and politics in the middle ages, with a synoptic table of sources

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LAW AND POLITICS IN THE MIDDLE AGES

WITH A SYNOPTIC TABLE OF SOURCES

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JOHN MURRAY, ALBEMARLE STREET
1919
PREFACE.

The Middle Ages are Middle only in a sense. They are Middle to us, whom a long-established tradition has taught to regard History as beginning with the foundation of Rome, and the emergence into political life of the Grecian States. But in another, and important sense, they are very Early Ages indeed. They are the foundation epoch of that group of communities, so alike in essentials, so manifestly different in detail, which, for want of a better name, we call Teutonic, and which at the present day control the destinies, not only of Western Europe, but of lands beyond the great seas, of which their founders never dreamed. They have produced a civilization wholly unlike any civilization which has preceded it, a civilization which, on its political side at least, is not only the latest, but, as there is sober reason to believe, the best in the world's history. That, in the building
of this civilization, these communities borrowed, in some cases largely, in others much less freely, from an older polity, may be readily admitted. But that it was a borrowing, and not an inheritance, no serious student of the Middle Ages can well doubt. To conceive of Teutonic history as an appendage to Roman history, is not merely to ride an academic theory to death; it is to indulge in a profound misconception of the capacities of human nature. It is to assume that a community of men is capable, not merely of pretending to adopt, but of actually adopting and living the life of, any system of polity which happens to strike its fancy. It would be as reasonable to suppose that a child who amuses himself with playing at soldiers is capable of conducting, or even of taking part in, a real campaign. The Middle Ages were the nursery of the Barbarian; they were the burial-ground of the Roman. And it is just in this strange combination, with its startling inconsistencies, that their artistic value, their charm and pathos, lie. But, while the artist may content himself with results, the enquirer must look for causes, and trace the progress of vital movements.

To separate from the mass of medieval history
those institutions and ideas which were destined for the future, to distinguish them from survivals which belonged to the past, is the aim of this book. It professes to deal only with conduct, not with speculation; with action, not with thought. It employs, admittedly, but one class of evidences; and it is to be feared that to many persons, lawyers and laymen alike, the choice of materials will appear unfortunate. The man who looks upon Law as the arbitrary command of authority will, not unnaturally, regard Law as a poor guide to the historical enquirer. It has, accordingly, been the first care of the writer to show that Law, at any rate in the Middle Ages, is not the arbitrary command of authority, but something entirely different.

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It is hoped that the List and Synoptic Table of Sources, appended to the book, will serve the double purpose of inspiring confidence in the reader; and of guiding him to the original authorities.

Balliol College,

November, 1897.
PREFACE TO THE SECOND EDITION.

The continued demand for this book has, naturally, been an unexpected pleasure to the writer; but it has occasioned him a certain amount of embarrassment. He sees no reason to alter any of the more important conclusions expressed in the original edition. But he has detected in that edition a few errors of detail; and certain phrases which it contains, suitable enough in the year 1897, have, in the course of sixteen years, acquired an archaic flavour. To correct these errors of detail, and modify these anachronisms, have been among the objects of the present edition. But the most important changes will be found in the references given in the Notes at the ends of the respective chapters, to the masterly edition of the Anglo-Saxon Laws, by Dr. Felix Liebermann, of Berlin, which has appeared since this book was first published, and which has, in effect, superseded the earlier editions of Thorpe and Schmid. The gratitude which all students of Early English history must feel towards Dr. Liebermann for his monumental work, will be tempered only by the regret that this, the latest and best edition of our priceless early codes, does not owe its existence to native enterprise and scholarship. Happily, learning knows no political boundaries; and the labours of Dr. Liebermann are a permanent endowment, not merely of his own nation, but of the world. It is proverbially dangerous to prophesy; but it is difficult to believe that any future discoveries will supersede his work.

London, September, 1913.
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