

UNIVERSITY OF LONDON.

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EXAMINATION

FOR THE DEGREE OF

BACHELOR OF LAWS

IN THE YEAR 1841.

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EXAMINER.

Professor GRAVES, M.A., F.R.S.

## UNIVERSITY LAW SCHOLARS.



### JURISPRUDENCE.

- 1839. JOHN RICHARD QUAIN ..... University College.
- 1840. FREDERIC JOHN WOOD ..... University College.
- 1841. No Scholarship awarded.

# PASS EXAMINATION.

*Examiner*, Professor GRAVES.

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MONDAY, November 8.—MORNING, 10 to 1.

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## BLACKSTONE'S COMMENTARIES. LAST THREE VOLUMES OF KENT'S COMMENTARIES.

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### BLACKSTONE.

I. GIVE a general statement of the arrangement adopted by Blackstone in his Commentaries.

II.—1. Enumerate the various parts of the unwritten law. 2. State the legal requisites of a particular custom, and, 3. explain, by example, how a custom may be vitiated by an interruption of the right, as distinguished from an interruption of the possession.

III.—1. What are the component parts of the Canon Law of Rome? 2. To what species of canons does the Statute 25 H. VIII. c. 19. relate? 3. Of what force are the Canons of 1603? 4. Explain the constitution of Ecclesiastical Convocations in England.

IV.—1. Give an historical account of the law as to the duration of Parliament. 2. In what case is a dissolved Parliament revived? 3. How soon after the determination of a former Parliament must a new one be summoned? 4. Give instances of Parliaments which have sat without summons from the Crown. 5. What practical checks exist to prevent

the continued administration of government without the assembling of Parliament ?

V.—1. Explain the doctrines of the constitution with respect to Royal succession. 2. State the leading provisions of the Bill of Rights and of the Act of Settlement.

VI.—1. Explain the prerogative of the Crown as to lunatics and idiots; 2. as to treasure-trove, distinguishing the case when things found belong to the finder; 3. as to the right of making certain kinds of erections on the lands of subjects. 4. Mention the remedies of a subject in case of invasions of his rights by the Crown.

VII.—1. Explain the law of allegiance. 2. State the disqualifications of aliens. 3. Distinguish between denizens and naturalized persons.

VIII.—1. Define the extent of the husband's liability for the acts of his wife during the coverture, and 2. explain the principles upon which his liability is founded in the several cases specified.

IX.—1. How are corporations created? 2. Enumerate the powers which, according to Blackstone, are incident to all corporations aggregate. 3. Distinguish the several kinds of corporations, and 4. state the principles which determine the person in whom the right of visitation resides.

X.—1. Distinguish between things real and things personal. 2. Explain the words, land, tenement, hereditament. 3. Distinguish between corporeal and incorporeal hereditaments.

XI.—1. Distinguish between common appendant and common appurtenant; 2. between rent-service, rent-charge, and rent-seek.

XII.—1. Explain the words boe-land, fole-land; 2. the origin of copyhold tenure; 3. the origin of manors.

## KENT.

I.—1. Explain the rights of the husband in the fee simple of the wife; 2. in her freehold life estate; 3. in her chattels real; 4. in her personal property in possession; 5. in her choses in action.

II.—1. Distinguish between the void acts and the voidable acts of an infant. 2. Particularize the rules of law as to the confirmation of an infant's voidable acts. 3. Specify the liabilities and immunities of infants in actions and suits.

III.—1. Explain the rules which determine the master's liability for the contracts, and 2. for the torts of his servant.

IV. Trace historically the progress of the power of alienation of property.

V. Give a summary of the rules determining the ownership of fixtures.

VI.—1. Explain the order of priority in the payment of a deceased person's debts, and 2. the rules of distribution of personal property in case of intestacy.

VII.—1. Define (*a*) contract; (*b*) consideration. 2. Explain the principal legal distinctions between consideration executed and consideration executory. 3. Distinguish, with respect to consideration, (*a*) bills of exchange and promissory notes; (*b*) other parol contracts; (*c*) specialties.

VIII.—1. In cases of goods sold, how far and in what cases is there any implied warranty? 2. Distinguish the circumstances wherein a contract may be rescinded from those wherein the only remedy is an action for damages.

IX.—1. Explain the different kinds of lien upon personal property, and 2. the different ways in which lien may be created.

X.—1. Explain stoppage *in transitu*. 2. Give examples of such delivery as is sufficient to determine the vendor's right of stoppage. 3. Explain the different practical effects that would result from considering the stoppage as creating a lien or as a rescission of the contract.

XI.—1. What is the ordinary division of bailments? 2. Under what three classes may bailments be arranged?

3. State the rules as to the liability of bailor and bailee in each of the three classes referred to.

XII.—1. How far can the acts of one partner bind the firm? 2. Explain the legal consequences of a dissolution of partnership (*a*) as to the former partners, (*b*) as to third persons; (*a*) with notice, (*β*) without notice of dissolution.

XIII.—1. Define the terms charter party, bill of lading, freight, general average, salvage. 2. In what cases does the maritime law apportion the loss occasioned by the collision of ships?

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MONDAY, November 8.—AFTERNOON, 3 to 6.

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BLACKSTONE'S COMMENTARIES.

LAST THREE VOLUMES OF KENT'S COMMENTARIES.

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BLACKSTONE.

I.—1. Enumerate the modes of redressing private wrongs by acts of the parties. 2. In what case is entry on the land of a third person for the purpose of recaption lawful? 3. What things are privileged from distress?

II. Explain the doctrine of remitter.

III.—1. Distinguish Courts of Record from Courts not of Record. 2. In what cases have the Courts of Queen's Bench, of Common Pleas, and of Exchequer respectively, exclusive jurisdiction? 3. Explain the nature of (*a*) mandamus; (*b*) prohibition; (*c*) *quo warranto*.

IV. In cases of libel, explain the different effects of proceeding (*a*) by action; (*b*) by indictment; (*c*) by criminal information.



V.—1. Relate the history of the Habeas Corpus Act.  
2. What alteration was made, by analogy to that Act, in the practice of returns to the writ of Habeas Corpus *ad subjiciendum* at Common Law?

VI. When is the action of trespass applicable, and when a special action on the case?

VII. Explain the fictions of the ordinary action of ejectment.

VIII.—1. What is a departure in pleading, and what is duplicity? 2. When is a new assignment expedient, and when may matter be pleaded *puis darrein continuance*?

IX. Mention some of the advantages and defects of Trial by Jury in Civil and Criminal cases.

X. Explain the principal differences between Courts of Common Law and Courts of Equity in modes of proof, modes of trial, and modes of relief.

XI. What are the principal rules which limit the reception of evidence?

XII.—1. Explain nonsuit, special verdict, special case.  
2. State the grounds for arrest of judgment; for repleader.

XIII.—1. What are the chief provisions relating to high treason of the Statute 25 E. III. st. 5. c. 2.? 2. Explain, by example, the judicial construction placed upon the words “compassing or imagining the death of the king:” “levying war against the king.” 3. What are the peculiar rules of evidence and procedure in cases of high treason?

XIV. Define conspiracy; affray; riot; rout; unlawful assembly.

#### KENT.

I.—1. In what cases may goods be distrained for rent?  
2. Enumerate the other remedies for the recovery of rent, distinguishing the cases of rent reserved by specialty and rent reserved without deed.

II. Define the requisites to a tenancy by the curtesy.

III. Explain the law of emblements.

IV. Explain severally the legal and equitable rights of mortgagor and mortgagee.

V.—1. Define remainder. 2. Distinguish between vested and contingent remainders. 3. Enumerate the modes of destroying contingent remainders. 4. Explain the operation of the provision for the support of contingent remainders ordinarily inserted in settlements.

VI.—1. Distinguish executory devises from remainders. 2. Enunciate the rule against perpetuities.

VII.—1. Give a concise account of the introduction of uses. 2. Explain the principal legal differences between conveyances operating at Common Law and conveyances operating under the Statute of Uses. 3. Explain the nature of powers.

VIII.—1. Explain the manner of creating trusts. 2. Mention the principal peculiarities of trusts as distinguished from legal estates. 3. Distinguish between the properties of executed and of executory trusts.

IX.—1. Explain the equitable effects of notice. 2. Explain the operation of attendant terms in protecting purchasers.

X.—1. State the provisions of the Statute of Frauds with respect to interests in land. 2. In what cases will equity decree the performance of a parol contract to convey?

XI.—1. What circumstances are necessary to the due execution of a deed? 2. To what cases is a deed of grant applicable? 3. Explain the operation of a covenant to stand seized. 4. Explain the operation of lease and release.

XII.—1. Distinguish joint-tenancy from tenancy in common, as to mode of creation and as to legal consequences. 2. How may joint-tenancy be severed?

*TUESDAY, November 9.—MORNING, 10 to 1.*

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RUTHERFORTH'S INSTITUTES OF NATURAL  
LAW.

THE TWO PORTIONS OF DUMONT'S EDITION  
OF BENTHAM'S MORALS AND LEGISLATION  
WHICH CONTAIN THE PRINCIPLES OF A CIVIL  
CODE AND THE PRINCIPLES OF A CRIMINAL  
CODE.

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RUTHERFORTH.

I.—1. What is meant by the Law of Nature? and, 2. by what criterion does Rutherford distinguish perfect from imperfect rights?

II.—1. What original rights has a man in his own person? and, 2. how far, in accordance with the Law of Nature, may natural liberty be restrained?

III.—1. In what ways may a man acquire rights over the persons of others? 2. Explain the evils of slavery. 3. By what causes, and to what extent, according to Rutherford, may slavery be introduced consistently with the Law of Nature?

IV. What are the extent and limits of parental authority?

V.—1. Explain the advantages of the institution of marriage, and, 2. the disadvantages of polygamy.

VI.—1. What is property? and, 2. what are the principal modes in which its extent is capable of being limited? 3. Specify the inconveniences of a community of goods.

VII.—1. How does Rutherford, after Grotius, explain the original acquisition of property by occupancy? and, 2. what

was the opinion of Loeke upon this subject? 3. Distinguish things capable, from things incapable, of occupancy.

VIII. Upon what principle are intestate successions introduced, and how far does the Law of Nature determine the order of succession?

IX. What are the requisites of prescription, and upon what principle is prescription founded?

X. Enumerate the circumstances which are necessary to the obligation of a promise, distinguishing the cases in which fear and error excuse the performance of a promise.

XI.—1. How do contracts differ from promises? and, 2. how does Rutherford qualify the proposition that no man by engaging in a contract parts with more than he designed to part with?

XII.—1. What is the foundation of the right of punishment? 2. what are its ends? and, 3. what circumstances ought to regulate its amount?

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#### BENTHAM.

I.—1. What is the chief end, and what are the subordinate ends of Civil Legislation? 2. Explain the relative importance of the subordinate ends, and the extent to which positive laws are capable of contributing towards each of them. 3. Give examples of the manner in which they may conflict, and show what would be the consequence of establishing as a principle that all men should have equal rights.

II.—1. In what does property consist, and to what extent can it exist independently of law? 2. What are the chief evils resulting from the infringement of proprietary rights? 3. Enumerate the leading maxims which set limits to proprietary rights.

III.—1. Specify the principles which ought to regulate the acquisition of property by prescription, and, 2. the principles which ought to regulate the adjustment of mutual

rights when the labour of one man has been expended upon a thing belonging to another.

IV.—1. State the advantages of free powers of alienating property *inter vivos*, and, 2. the ordinary motives for restraints upon such alienation.

V. Give examples of ordinary, but improper, legislative infringements upon security.

VI. What are the inconveniences of a voluntary provision for the poor, and to what extent ought the poor to be relieved by law?

VII. What conditions must be fulfilled in order that laws should be in conformity with the general expectation of the people governed?

VIII.—1. In framing a law of succession to the goods of a deceased person, what ought to be the main objects of the legislator? 2. What would be the most simple plan of succession among relatives? 3. State the principal heads of the plan proposed by Bentham.

IX.—1. Explain the advantages of allowing a power of testamentary disposition, and the consequences of the absence of such a power while alienation *inter vivos* is allowed. 2. State the arguments in favour of a limited power.

X.—1. Explain the meaning of the word ‘services’ as understood by Bentham, and explain the manner in which rights to services and proprietary rights may become blended. 2. Mention some leading bases of arrangement for classing services. 3. State the objects which a legislator ought to have in view in creating legal rights to services.

XI.—1. Define pact, and explain the principle upon which Bentham rests the duty of the legislator to sanction the validity of pacts. 2. By what means and for what reasons ought pacts to be dissolved, and when ought a party to be excused from performance on making compensation?



*TUESDAY, November 9.—AFTERNOON, 3 to 6.*

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RUTHERFORTH'S INSTITUTES OF NATURAL  
LAW.

THE TWO PORTIONS OF DUMONT'S EDITION  
OF BENTHAM'S MORALS AND LEGISLATION  
WHICH CONTAIN THE PRINCIPLES OF A CIVIL  
CODE AND THE PRINCIPLES OF A CRIMINAL  
CODE.

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RUTHERFORTH.

I.—1. In a society wherein the members are equal, upon what grounds do the acts of the majority bind the minority? 2. Define civil society, and mention the usual motives which lead to the formation of a state. 3. Enumerate the modes in which men become members of existing civil societies.

II.—1. What is the origin of civil power? 2. Distinguish legislative from executive civil power. 3. Explain the divisions of executive power. 4. What is judicial power, and to what head of civil power is it referred by Rutherford?

III.—1. Define (*a*) sovereign power; (*b*) civil constitution. 2. Distinguish and explain the different kinds of simple civil constitution. 3. Explain the opinions of Rutherford as to social compact, and as to the distinction between the formation of civil society and the settlement of a civil constitution.

IV. State and refute the respective arguments by which it has been endeavoured to prove, on the one hand, that all constitutions, except such as are monarchical, are unnatural, and on the other, that monarchical institutions are necessarily inconsistent with civil society.

V.—1. What rights of individuals are altered by civil

union without the aid of civil laws? 2. What actions, not justly punishable by individuals in a state of anarchy, may justly be punished by the laws of a civil society? 3. Distinguish between the extent of the rights of a civil society with respect to reparation for private wrongs and with respect to the punishment of crimes.

VI. How far and upon what principles may civil laws dispense with or forbid the performance of promises?

VII.—1. Distinguish (*a*) between civil law and compact; (*b*) between the internal obligation and the external sanction of civil law. 2. Enumerate the kinds of external sanction, and explain the sense in which it is said that a penal sanction is not essential to a civil law.

VIII.—1. Distinguish written from unwritten laws. 2. Explain the division of civil laws into public, private, and mixed. 3. What are fundamental laws?

IX.—1. Define civil subjection and civil liberty. 2. What connexion subsists between representative government and civil liberty? 3. What kind of subjection is implied in the notion of a province? 4. Under what circumstances have the members of a civil society a right to resist the civil power?

X.—1. Distinguish the law of nations from the law of nature. 2. For what reason does Rutherford hold that no part of the law of nations is constituted by usage, and for what purpose does he allow that usage may be referred to in investigating the law of nations?

XI.—1. Distinguish solemn from unsolemn war. 2. Enumerate some of the rules which limit the employment of force in war.

XII. How far, and in what cases, is a nation answerable to other nations for the acts of its members; and, reciprocally, how far, and in what cases, are men answerable to other nations for the acts of their own nation?

XIII.—1. Mention the chief limitations which the existence of war imposes on the rights of neutral states. 2. In the case of prize taken in war, what are the natural grounds of the jurisdiction, commonly exercised by the nation of the captors, as to the legality of the capture?

XIV.—1. By what means may the constitution of a state be changed, and what effect upon the external rights and obligations of a state is produced by a change of constitution? 2. In what does the identity of a state consist, and by what changes is the identity of a state destroyed?

### BENTHAM.

I.—1. Define offences, (*a*) private; (*b*) self-affecting; (*c*) semi-public; (*d*) public. 2. Enumerate the subdivisions of each of these four classes.

II.—1. Distinguish between evil of the first, and evil of the second order. 2. What is imaginary evil? 3. Enumerate the aggravations of evil of the first order derived from the circumstances of the offence. 4. Enumerate (*a*) the aggravations and (*b*) the extenuations of alarm derived from the circumstances of the offender's character.

III.—1. State and explain the ordinary effect which a special position of the offender, affording facility for the commission of the offence, produces upon the resulting alarm. 2. Mention a signal exception to the ordinary rule.

IV.—1. State the doctrine of Bentham as to the alleged error of calling motives good or bad. 2. Distinguish between motives, (*a*) social; (*b*) semi-social; (*c*) anti-social; (*d*) personal.

V.—1. To what kind of offences are preventive means especially applicable? 2. For what reason ought larger discretion to be intrusted to the executive power in the application of suppressive than of preventive means?

VI.—1. To what kinds of offences is satisfaction applicable? 2. What ought to be the measure of pecuniary satisfaction?

VII.—1. Explain the causes of the introduction of duelling, and the defects of duelling as a penal remedy. 2. Mention the modes of honorary reparation proposed by Bentham.



VIII.—1. Class the cases where punishment ought not to be inflicted. 2. Enumerate the evils of all penal laws. 3. Distinguish between the cases in which lapse of time ought, and those in which it ought not, to be a bar to punishment.

IX.—1. Describe the evils resulting from punishments which involve innocent persons, and, 2. give examples of the most common cases of the voluntary infliction of such misplaced punishments.

X.—1. Enumerate the principal useful qualities which should determine a legislator in his choice of punishment. 2. With reference to such qualities, explain the defects and advantages of (*a*) capital punishment; (*b*) transportation; (*c*) imprisonment; (*d*) pecuniary penalties.

XI.—1. State the imperfections of direct penal legislation, and, 2. the three main principles of indirect legislation for the purpose of preventing offences.

XII. Explain the probable effects of the general and indiscriminate diffusion of knowledge upon the quantity and quality of offences.

XIII. Enumerate the principal indirect modes of so influencing the will as to prevent offences.

XIV. Enumerate the precautions to be taken for the purpose of preventing abuse of authority.



EXAMINATION FOR HONOURS.



# EXAMINATION FOR HONOURS.

*Examiner, Professor GRAVES.*

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## JURISPRUDENCE.

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*MONDAY, November 22.—MORNING, 10 to 1.*

I.—1. MENTION some of the different senses which have been ascribed to the word Jurisprudence. 2. What province does Mr. Austin assign to general, as distinguished from particular, Jurisprudence?

II.—1. Explain “ Law ” in its strict, and in its more extended, senses. 2. Distinguish between law and mere custom. 3. Point out the origin of the distinction between law and equity, and give examples of the different manners in which that distinction has operated in particular legal systems.

III.—1. What is meant by Bentham’s division of rights into substantive and adjective? 2. How does Bentham distinguish internal, from international, law?

IV.—1. Point out the defects of a division of law into public and private. 2. Explain the practical difficulties of classing (*a*) criminal law; (*b*) the law relating to roads, and other matters of social economy.

V.—1. In what different senses are the words (*a*) person; (*b*) thing; (*c*) action; commonly used by jurists? 2. Enumerate some of the different senses which have been attributed to the division—borrowed from the ancient Roman jurists—of law, into (*a*) law relating to persons; (*b*) law relating to things; (*c*) law relating to actions.

VI.—1. Explain Mr. Austin's two-fold division of law into *jus rerum* and *jus personarum*. 2. On what account have some jurists preferred to treat the law of things before the law of persons? 3. Distribute, stating your reasons, among the last-mentioned heads, the law relating (*a*) to the rights, commonly called absolute, of individuals to reputation, liberty, &c.; (*b*) to obligations; (*c*) to trades and professions; (*d*) to monopolies and other privileges conferred on individuals; (*e*) to administrative officers; (*f*) to ancestor and heir; (*g*) to accused persons and prisoners; (*h*) to legal formalities, not forensic; (*i*) to forensic procedure; (*k*) to interpretation.

VII.—1. Explain the different results of supposing (*a*) that certain rights are the *consequence* of a defined *status*; (*b*) that a particular aggregate of rights itself *constitutes* a *status*. 2. By what distinctions is the law concerning debtor and creditor, buyer and seller, and similar classes of persons, excluded from the *jus personarum*?

VIII.—1. How are proprietary rights divided by the ancient Roman jurists? 2. Explain *dominium* (*a*) as distinguished from *obligatio*, (*b*) as distinguished from *servitus*. 3. Give instances of rights which, in English law, are considered as limited rights of *dominium*, while, in the Roman law and in systems derived from the Roman law, similar rights are treated as *jura in re aliendá*. 4. Give examples of legal transactions, which, in English *common law*, are considered to confer *dominium*; while, in English *equity*, they are considered to confer merely *jura in re aliendá*.

IX.—1. Explain the different senses of the word *obligatio*. 2. To a right of what class does *obligatio*, used in its classical sense, correspond? 3. Describe obligations (*a*) *ex contractu*; (*b*) *quasi ex contractu*; (*c*) *ex delicto*; (*d*) *quasi ex delicto*, and point out the defects of this division. 4. Refer, with such distinctions as may be necessary, to the foregoing classes, (*a*) the liabilities arising from the injury which consists in breach of contract; (*b*) the liabilities of one person for the delicts of another; (*c*) the liabilities resulting from consent, manifested not by words, but by conduct.

X.—1. Explain the distinction, made by modern civilians

between *jus in re* and *jus ad rem*. 2. Give examples of legal transactions which, in English *common law*, are regarded as producing *jura ad rem*, while, in English *equity*, they are regarded as producing *jura in re*. 3. Distinguish a *modus acquirendi* from a *titulus ad acquirendum*, and mention cases in which *jus in re* may be acquired without a foregoing *jus ad rem*.

XI.—1. What sense does Mr. Austin propose to affix to the words (a) rights *in rem*; (b) rights *in personam*; (c) offices; (d) obligations? 2. State some of the practical objections that might be urged against the method of a legal treatise, of which the arrangement should be founded upon a division of rights into (a) rights as against other persons generally; (b) rights as against determinate persons. 3. Distribute, stating your reasons, among the last-mentioned classes, (a) rights resulting from injuries to rights which hold as against other persons generally; (b) the right of exercising rights which hold as against determinate persons; (c) proprietary rights over a particular person; (d) rights, not as against all persons without limitation, but as against fluctuating classes of persons, as, for example, the inhabitants of a certain territory.

MONDAY, November 22.—AFTERNOON, 3 to 6.

I.—1. Give Cicero's definition of *res publica*, and enumerate some of the principal meanings which have been attributed to the word 'state.' 2. Show that the same community may be internally sovereign, and yet, with respect to foreign nations, may not possess the characters of an independent state. 3. Distinguish a province from an independent state. 4. Distribute into leading classes confederations of states.

II.—1. Distinguish legislative from executive functions, and distinguish the judicial power from other powers of developing and applying the orders of the legislature. 2. Detail the advantages of keeping the legislative, executive, and



judicial powers separate. 3. Enumerate some securities for the pure administration of judicial functions, and state the principles which ought to regulate the allowance of appeals. 4. Into what classes does Bentham arrange political powers?

III.—1. State the chief differences in principle between ancient and modern systems of representation. 2. Trace the effects, in a mixed government, of a chamber of hereditary peers.

IV.—1. Define the limits which separate the province of legislation from the rest of morality, and mention the ordinary characteristics of those duties which may be justly enforced by law. 2. By what ideal criterion does Kant distinguish justice from injustice?

V.—1. State the qualities which ought to characterize the style of laws. 2. What are the characters of a good law enumerated by Lord Bacon in his ‘*Exemplum Tractatûs de Justitiâ Universali*’? 3. Compare the advantages and disadvantages of accompanying laws with detailed statements of the motives for their enactment.

VI.—1. Enumerate the principal varying circumstances which should be taken into consideration in framing a new constitution of government, or in enacting a body of laws for a given people. 2. Weigh the advantages and disadvantages of complete written codes. 3. Through what stages does law ordinarily pass in the history of nations?

VII.—1. State the evils of such interference by a state in the education of the people as is recommended by Plato. 2. What are the principles chiefly controverted in determining the propriety of national establishments (*a*) for religious, (*b*) for secular, instruction?

VIII.—1. How far may a state properly interfere to suppress or to punish the publication of opinions? 2. Mention some of the restrictions which may be properly imposed on political associations.

IX. Analyse the effect of laws limiting the rate of interest for money.

X.—1. Give historical examples of states and private communities in which property has been equalized or held in



common. 2. Explain the effects of (a) sumptuary laws; (b) laws of primogeniture, without liberty of alienation by will; (c) laws permitting remote entails; (d) laws restricting alienation in mortmain.

XI.—1. To what extent may the vendor and vendee be properly required by law to communicate to each other their knowledge of the merits and defects of the thing sold? and, 2. in what cases is it expedient to allow bargains to be rescinded for inadequacy of consideration?

XII.—1. What is the proper legal criterion for the interpretation of verbal promises and oaths? 2. Upon what limiting principles should the law proceed in requiring written evidence of agreements and transfers of property? 3. To what extent is it expedient to allow the interpretation of written instruments to be helped by extrinsic evidence? 4. Explain the effects of excluding the evidence of plaintiffs, defendants, and other persons having direct pecuniary interests in the result of a cause.

## CONVEYANCING.

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*TUESDAY, November 23.—MORNING, 10 to 1.*

I. In the following cases of variation between the premises and the *habendum* of a conveyance, state the resulting effect, with reasons :

Premises.	Habendum.
To A. . . . .	To A. and his heirs.
To A. for life . . . . .	To A. and his heirs.
To A. for years . . . . .	To A. and his heirs.
To A. . . . .	To A. from the death of B.
To A. for life . . . . .	To A. from the death of B.
To A. and his heirs . . . . .	To A. for life.
To A. and his heirs . . . . .	To A. and the heirs of his body.
To A. and the heirs of his body . . . . .	To A. and his heirs.

II.—1. In the absence of express stipulation, how are the expenses attending the deduction of title and conveyance (a) of freehold, (b) of copyhold, property distributed between the vendor and purchaser? 2. In particular, what is the rule as to the expense of assigning attendant terms?

III. State cases in which a purchaser may be compelled to take with compensation an interest different in quantity or quality from that which the vendor professed to sell.

IV. Determine the cases in which a purchaser is bound to see to the application of the purchase-money.

V. In what cases is the vendor of a lease *not* bound to produce his lessor's title?

VI.—1. What conveyances are fraudulent, (a) as against subsequent purchasers; (b) as against creditors? 2. Can vo-

luntary conveyances be revoked? 3. Can voluntary agreements to convey be enforced in any, and, if so, in what cases?

VII. In what cases is inadequacy of consideration (*a*) an excuse for non-performance of an agreement; (*b*) a ground of relief against a conveyance?

VIII.—1. Relate the progress of the law with respect to the liability of landed property to the debts of a deceased person. 2. Distinguish legal from equitable assets.

IX.—1. Relate the progress of the law in subjecting property to be taken in execution under judgments. 2. Explain the effects, legal and equitable, of judgments on landed property.

X.—1. Can a clergyman directly charge his benefice? 2. In what case is a sequestration of a benefice, in consequence of a judgment entered up in pursuance of a warrant of attorney given by a clergyman, valid? 3. State the principal provisions of the restraining statutes with respect to leases of ecclesiastical property.

XI.—1. In what cases is the sale of a next presentation simoniacal? 2. In what cases are bonds of resignation given by an incumbent, valid?

XII.—1. In the register counties, what is the effect of a purchase *without* notice, when the purchaser afterwards registers his purchase *with* notice, of prior unregistered incumbrances? 2. What is the effect, (*a*) legal; (*b*) equitable, of a purchase made with notice of prior unregistered incumbrances? 3. Is the fact of the registry of a prior equitable interest sufficient of itself to postpone a subsequent purchaser of the legal estate? 4. Explain “tacking” and “squeezing out.”

XIII.—1. Mention the cases in which the law *requires* legal instruments to be registered. 2. In what cases is it unnecessary to enrol the memorial of the grant of an annuity?

XIV. What are the criteria of decision when the question arises whether an informal instrument operates as a lease or as an agreement?

*TUESDAY, November 23.—AFTERNOON, 3 to 6.*

I. After a conveyance without covenants, has the purchaser of an estate with a defective title a remedy against the vendor in any, and if so, in what cases?

II. Distinguish covenants which run with the land from covenants which do not run with the land, and give examples of each class.

III.—1. Determine, according to the nature of the vendor's title, the persons against whose acts he can be required to covenant. 2. How do conveyances by way of mortgage differ in this respect from other conveyances? 3. What covenants are ordinarily entered into by trustees?

IV. What are the covenants usually inserted (*a*) in conveyances in fee; (*b*) in assignments of leases for years?

V. Mention certain clauses relating to trustees and executors which can seldom be prudently dispensed with in wills.

VI.—1. What precautions should be taken by a purchaser of a portion of property held under an entire rent? 2. What effect, as to apportionment, upon an entire rent, is produced by (*a*) a division of the reversion by act of law; (*b*) an alienation of part of the lands by the lessor; (*c*) an eviction of the lessee from part of the lands by the lessor; (*d*) an eviction of the lessee by title paramount?

VII.—1. Can tenants for life and tenants for years, by the terms of the conveyances under which they hold, be debarred indefinitely from alienation without consent of their landlord? 2. What is the doctrine of Dumpor's case, 4 Co. 119, with respect to the effect of a single license to alien? 3. In what cases can alienation be restricted only by a provision for ceaser or by limitation over?

VIII.—1. Explain the requisites of merger. 2. When will merger take place, though the estates are held in different rights?

IX. State the distinctions between powers appendant or

appurtenant, collateral or in gross, and simply collateral, with respect to suspension, extinguishment and merger, and explain the principle of those distinctions.

X.—1. What distinction exists, as to the creation of powers, between conveyances operating by, and conveyances operating without, transmutation of possession? 2. What effect has an appointment under a power on incumbrances subsequent in date to the creation of the power? 3. What effect has an executory devise, divesting an estate in fee, on the dower or curtesy incident to that estate?

XI.—1. Explain the alteration which has been recently made (3 and 4 W. IV. c. 105.) in the law of dower. 2. An estate is limited to A for life; remainder to B for the life of, and in trust for, A; remainder to A in fee: what effect has this limitation on the right to dower of A's widow, married (a) before, (b) since, the 1st of January 1834?

XII.—1. Explain the principal alterations which have been recently made (3 and 4 W. IV. c. 106.) in the law of inheritance. 2. A purchases an estate in fee, and dies intestate, leaving two daughters; one of the daughters dies intestate, leaving an only son; how does her share descend?

XIII.—1. Mention some of the recent alterations (3 and 4 W. IV. c. 27.) in the law as to limitation of actions relating to real property. 2. For what length of time is it usual to require a vendor to trace a title (a) to estates in land; (b) to advowsons?

XIV.—Mention the principal alterations which have been recently made (1 Vic. c. 26.) in the law relating to devises.



## LAW OF THE COURTS OF EQUITY.

WEDNESDAY, November 24.—MORNING, 10 to 1.

I.—1. In favour of what parties will equity remedy the defective execution of powers? 2. What distinctions are to be taken into consideration, when relief is sought upon the ground of mistake? 3. In what cases is relief afforded on the ground (*a*) of false representations, (*b*) of suppressions of fact?

II.—1. Explain the doctrine of election. 2. Does a person who elects to take against a will forfeit the whole benefit intended for him, or so much only as may be sufficient to indemnify the disappointed legatees?

III.—1. Explain the doctrine of conversion. 2. What circumstances are to be considered in determining whether a conversion is intended to be partial, notwithstanding general directions to convert the whole fund?

IV.—1. Upon what presumption is the doctrine of satisfaction founded? 2. In the case of a legacy to a creditor or to a child entitled by settlement to a portion, what circumstances are to be considered in determining whether the legacy operates by way of satisfaction?

V.—1. Upon what principle is the doctrine of marshalling securities founded? 2. Explain, by example, the manner in which equity relieves, (*a*) before, (*b*) after, the excessive resort to one of two available funds. 3. Will the court marshal assets in favour of legatees (*a*) against an heir, (*b*) against a devisee?

VI. Distinguish the cases in which the heir upon whom a mortgaged estate descends can claim to have the estate exonerated by the personalty, from the cases in which he is bound to take *cum onere*.

VII.—1. What are specific legacies? 2. In what ways may legacies be adeemed? 3. When successive interests in personal property, wholly or partly of a wasting nature, are limited by will, in what cases must the wasting property be converted into money, and invested in permanent securities? 4. In the case of legacies to infants, without provision as to interest, or with direction that interest shall accumulate until the time of payment, when will a court of equity allow maintenance?

VIII.—1. In case of deficiency of assets, have executors any power of giving a preference (*a*) among creditors of equal degree, (*b*) among legatees? 2. Explain the effect, (*a*) legal, (*b*) equitable, of making a debtor an executor.

IX.—1. What kinds of property of the wife survive to the husband *jure mariti*? and, 2. to what kinds of property does the surviving husband become legally entitled by taking out administration to his wife?

X.—1. Explain the meaning of the wife's equity to a settlement, and the manner in which it is made available. 2. Does it exist with respect to (*a*) separate property of the wife; (*b*) leases for years; (*c*) annuities for lives? 3. How is it waived? 4. Is an assignee for valuable consideration of a wife's chose in action entitled to sue in equity for possession without making a settlement? 5. Can a husband, who without suit has obtained possession of a legacy left to his wife, be compelled to make a settlement? 6. Has an assignee for valuable consideration of a wife's chose in action, (*a*) reversionary, (*b*) payable immediately, any title as against the wife surviving her husband?

XI.—1. How far is a trustee responsible for the acts of a co-trustee? 2. What is the duty of a trustee with respect to investment of trust funds? 3. Can a trustee purchase from the *cestui que trust*?

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WEDNESDAY, November 24.—AFTERNOON, 3 to 6.

I.—1. In what cases will the Court of Chancery execute gifts to charity *cy près*? 2. In what cases will the Crown, by sign manual, dispose of funds intended for charitable purposes?

II. On what grounds will equity interfere to deprive a father of the guardianship of his child?

III.—1. Mention some of the kinds of valid agreements with respect to which equity refuses to decree a specific performance. 2. Give examples of facts which may be used for the purpose of resisting a claim to specific performance, while the same facts could not be originally insisted on for the purpose of establishing a claim. 3. In a suit for specific performance, can a defendant set up as a defence a subsequent parol variation, without rendering himself liable to perform the modified agreement which he admits?

IV.—1. Distinguish common, from special, injunctions. 2. Upon what grounds will courts of equity restrain proceedings at law? 3. In cases of private nuisance, when will equity interfere before, and when not until after, a trial at law deciding the rights of the parties?

V.—1. How do infants, married women, and lunatics respectively sue, and how defend? 2. Explain the principal rules as to suing and defending *in formâ pauperis*.

VI.—1. What are the formal parts into which a bill is usually divided? 2. Determine the different provinces of the stating and the charging part.

VII.—1. Define (*a*) scandal, (*b*) impertinence. 2. Explain the time and mode of referring a bill (*a*) for scandal, (*b*) for impertinence.

VIII. What are the provisions of the orders of August 1841 as to objections for want of parties?

IX. State the principal alterations made by those orders in process for contempt in different stages of a suit.

X.—1. Mention two frequent grounds for overruling pleas to part of the bill, which have been removed by those orders.



2. In what cases must a plea be supported by an answer?
3. Define multifariousness.

XI.—1. Mention the cases in which a defendant may refuse discovery. 2. Define the extent of privileged communications. 3. What are the exceptions to the rule that the plaintiff's right of discovery does not extend to the evidence of the defendant's case?

XII. Explain shortly the mode of taking evidence in equity.

XIII. In what cases may a bill be taken *pro confesso*?

XIV. What is the ordinary form of a decree (*a*) in a creditor's suit for administration of assets; (*b*) in a foreclosure suit?

XV. In what cases is (*a*) a bill of revivor, (*b*) a supplemental bill, necessary?

XVI.—1. How may a rehearing be obtained; how a bill of review? 2. What evidence may be used upon (*a*) a rehearing, (*b*) a bill of review? 3. Mention some circumstances in which proceedings in appeals differ from proceedings in writs of error at law.

## LAW OF THE COURTS OF COMMON LAW.

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*THURSDAY, November 25.—MORNING, 10 to 1.*

I.—1. In what cases may a married woman sue at law without her husband? 2. In what cases *must* the husband and wife be co-plaintiffs? 3. In what cases has the husband an option of suing with or without his wife? 4. What is the practical effect of unnecessarily making the wife a co-plaintiff?

II. What are the provisions of 3 and 4 W. IV. c. 42. respecting pleas in abatement, (*a*) for non-joinder of persons as co-defendants, (*b*) for misnomer?

III.—1. Explain the law of accord and satisfaction. 2. What is legal set-off? 3. Is evidence of set-off admissible, without plea of set-off, after notice?

IV.—1. What is a sufficient tender? 2. In what cases may actual tender be dispensed with? 3. In what cases of unliquidated damages may a tender of amends be pleaded?

V. Of what instruments must *profert* be made in pleading?

VI. In what cases is it requisite that a plea should conclude, (*a*) to the country, (*b*) with a prayer of judgment?

VII. State the resolutions in Crogate's case, 8 Co. 66, as to replications *de injuriâ*, and show how their application has been extended by the operation of the new rules of pleading.

VIII.—1. In what cases of actions for words is it necessary to allege special damage? 2. In what cases is it allowable to do so, but not necessary? 3. When is the allegation traversable? 4. Can special damage be given in evidence without an allegation of it in pleading?

IX.—1. What is sufficient evidence of the dishonour of a bill of exchange? 2. Under what circumstances is notice of dishonour dispensed with? 3. When the circumstances amount to such dispensation, is proof of them admissible in

evidenee under the usual averment of notice having been given?

X. What is the mode of proceeding in order to outlaw a defendant?

XI.—1. In what cases does a verdict for the plaintiff not carry costs? 2. In what cases is a certificate of the judge necessary to entitle the plaintiff to costs? 3. In what cases may the plaintiff be deprived of costs by the judge's certificate?

XII.—1. To what cases is (a) *repleader*, (b) *venire de novo*, applicable? 2. What authority has a court of error in awarding (a) *repleader*, (b) *venire de novo*, in proceedings (a) out of the superior courts, (b) out of inferior courts?

XIII.—1. For what injuries committed out of England can an action be maintained here? 2. In what cases can crimes committed out of England be prosecuted in this country?

XIV.—1. How may a foreign judgment be rendered available here? 2. In what cases is a foreign judgment recognised as conclusive in the courts of this country?

THURSDAY, November 25.—AFTERNOON, 3 to 6.

I.—1. In what cases may an action of debt or an action of assumpsit be brought at the option of the plaintiff? 2. In what cases will debt lie, and not assumpsit? 3. In what cases will assumpsit lie, and not debt?

II. In what cases may money paid in consequence of an illegal agreement be recovered in assumpsit?

III.—1. When may an action be maintained on a *quantum meruit* for work done, though not in conformity with a special agreement? 2. In such cases, what is the measure of the damages to be recovered by the plaintiff?

IV. When a special contract has been entered into be-

tween two persons, in what circumstances can one of them, not having entirely performed his part of the agreement, bring (*a*) a special action of assumpsit, (*b*) an action of *indebitatus assumpsit*, against the other?

V.—1. Has a debtor, owing money on several accounts, —*e. g.* on debts carrying interest and on debts not carrying interest—a right in all cases to select the account to which payments made by him shall be applied? 2. If this right exists in any case, within what, if any, limits of time is it circumscribed? 3. Is circumstantial evidence of specific application by the debtor within due time in any case admissible? 4. Where a payment has been made without any specific application, expressly declared or evidenced by circumstances, on the part of the debtor, does the law make any presumption as to his intentions, or does it leave the application in all cases to the payee?

VI.—1. In contracts, what provisions in restraint of trade are allowable? 2. Is it necessary that there should be an *adequate* consideration for the restraint?

VII. In what cases is evidence of usage admissible to explain or add to a contract?

VIII. Explain the differences between an action for false imprisonment, and an action for malicious arrest.

IX. Under what circumstances is (*a*) a peace-officer, (*b*) a private person, authorized to arrest without warrant, (*a*) for felony, (*β*) for misdemeanour?

X.—1. If an officer has a warrant to arrest a man (*a*) for felony, (*b*) for misdemeanour, under what circumstances is he justified in breaking into the house of such person? 2. In what cases, under a warrant against one man, may the house of another be broken into? 3. What circumstances justify the breaking into a house under the authority of a search-warrant?

XI. Mention some of the most important principles of the law, as altered by recent enactments, with respect to felonious injuries to the person not amounting to murder.

XII. What is the meaning of the word “malice” in relation (*a*) to murder, (*b*) to malicious injuries?

XIII.—1. Wherein does the offence of cheating consist at common law? 2. Describe the nature of the offence of obtaining goods under false pretences.

XIV.—1. Define and class (*a*) principals; (*b*) accessories. 2. In what ways may receivers of stolen goods be proceeded against?

XV. State the practice with respect to the admission of accomplices to give evidence.

XVI. In what cases are the costs of (*a*) preliminary proceedings; (*b*) the prosecution, allowed?



# CANDIDATES

ADMITTED TO THE DEGREE OF BACHELOR OF LAWS.

1841.

*The names are arranged alphabetically.*

## *First Division.*

	Colleges.
FREETH, THOMAS JACOB.....	University.
HAWKES, SIDNEY MILNES .....	University.
STEPHENS, HENRY GOLDWYER.....	Bristol.

## *Second Division.*

CAMP, STEPHEN .....	University.
COPE, THOMAS SPENCER .....	University.
DOWLING, JAMES SHEEN .....	King's.
HOGGINS, ALBANY WYVILL .....	University.
MULLENS, SAMUEL .....	University.
SIMON, JOHN .....	University.

# HONOURS AWARDED, 1841.

## CONVEYANCING.

	College.
FREETH, THOMAS JACOB .....	University.

## LAW OF THE COURTS OF EQUITY.

FREETH, <sup>5</sup> / <sub>4</sub> THOMAS JACOB .....	University.
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## LAW OF THE COURTS OF COMMON LAW.

FREETH, THOMAS JACOB .....	University.
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To Mr. Freeth was awarded a Certificate of Special Proficiency in each of the above subjects.



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