

# **AN ESSAY ON USES**

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An Essay on Uses by William Floyer Cornish

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**WILLIAM FLOYER CORNISH**

**AN ESSAY  
ON USES**



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AN

**ESSAY**

ON

**U S E S.**

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By **WILLIAM FLOYER CORNISH, Esq.**  
OF THE INNER TEMPLE.

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## P R E F A C E .

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EXISTING productions have so materially disentangled the difficulties, and dispelled the obscurities, of the doctrine of Uses, that, in presenting the following *Essay* to the Profession, I feel the necessity of soliciting indulgence.

Amidst the blaze of talent which has been thrown on this department of our law, additional light appeared to me impossible: but I was reassured by reflecting on its vital importance; and the absence of a work at once short and comprehensive, left the space which I have endeavoured to supply. But merely to compress would not sanction the multiplication of treatises, and therefore I have attempted, with a presumption which I hope is not unpardonable to impart to this *Essay* some degree of originality. Law is, indeed, austere and unbending: but her inflexibility, if too much indulged, would render her stationary, while the sister sciences are growing up around her; and as the principal source of improvement is derived from logical and lucid disposition, novelty of arrangement should be carefully distinguished from innovation upon principle. When the elements are admitted to retain their energy and operation, some scope for combination may be allowed to the theorist; and though definitions are proverbially dangerous, the attempt, if successful, is proportionally gratifying. To the student of English Law the greatest impediment arises, not from the number, but from the confusion of its principles. Adjudications and enactments have perfected it as much, perhaps, as human things admit of perfection: but, while its fundamentals are admirably congruous, its richness is displayed by its early professors with a careless magnificence; and it appears at once exuberant and indistinct, baffling the grasp of the most powerful understanding. Of late, however, individual industry, which alone can bring simultaneously to the unpractised eye the beauties of our juridical system, has been industriously employed in reconciling its seeming discrepancies, in exhibiting its elegant proportions, and in endeavouring, by a systematic distribution of its principles, to exalt its rank in the empire of reason: but, though much has been done, much may yet be done; and the achievements of some luminous minds naturally inspire subsequent adventurers with the hope of similar success.

In tracing and unfolding the springs and principles of this abstruse learning, I have, therefore, endeavoured to define its terms more accurately, and symmetrize its parts more harmoniously.

I have passed rapidly over the doctrine of ancient Uses, partly because previous labours have rendered further discussion of that antiquated learning superfluous, and partly because it elucidates modern trusts rather than modern uses.

Brevity was unattainable without compression ; and my observations are, in general, inferences rather than quotations : this avowal is due to myself, my readers, and my authorities.

The doctrines of devises and of trusts originated in, and are closely analogous to, Uses. Their striking points of community, similitude, and difference, have, therefore, been incidentally noticed.

Powers are an important branch of Uses ; and hence, notwithstanding the necessary imperfections in a partial and transient survey of an extensive and various doctrine, it was occasionally expedient to contemplate their peculiar properties.

Those whose opportunities of research are limited, and who are unable, therefore, to examine theoretical disquisitions, ought, nevertheless, to understand the cases which are continually rising up before them. To assist these, I have endeavoured, whenever an occasion has been presented, to reflect on practice the light of principle.

Desirous of avoiding repetition, I have frequently referred from one part of the *Essay* to another ; this is mentioned, because, from the same wish, the connexion between those parts is often inferential only, and therefore may not be immediately obvious.

I have sometimes entered into detail ; and, as the complexities of the subject admit of fallibility in the most penetrating and profound, I have sometimes respectfully presumed to canvass and controvert the opinions of contemporary writers. But as I have no presumptuous idea of rivalry ; as my ambition is circumscribed by the narrow wish, that my labours may prove a preparative to larger and more elaborate publications ; as the object of each critical discussion has been only to assist those who are still on the threshold of juridical studies, in scrutinizing the groundwork of ambiguous doctrines ; I trust that an occasional controversy of the respectable opinions of my predecessors will not be deemed illiberal or indelicate. Upon the whole, however, the undertaking is arduous ; but to myself I have performed a pleasing task ; and I shall not be wholly disappointed in the result, if I have succeeded in one of the many important ends I have aimed at ; and added, in the minutest degree, to the beauty of the noble pile which is the peculiar care of British Jurists.



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