

**TYAS'S LEGAL HAND-
BOOK; THE
NATURE AND LAW OF
REAL PROPERTY; REALTY**

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Tyas's Legal Hand-Book; The Nature and Law of Real Property; Realty by Robert Tyas

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ROBERT TYAS

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TYAS'S LEGAL HAND-BOOKS.

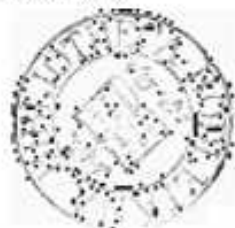
THE
NATURE AND LAW
OF
REAL PROPERTY;

COMPRISING

A SPECIFICATION OF CORPOREAL AND INCORPOREAL HEREDITAMENTS, WITH THE RIGHTS INCIDENT THEREUNTO.

A STATEMENT OF THE INJURIES TO WHICH THEY ARE LIABLE, AND THE REMEDIES AND PENALTIES CONSEQUENT THEREUPON, DOWN TO THE LATEST REGULATIONS OF THE LAW.

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REALTY.
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M D C C C X L.

P R E F A C E.

ON the first projection of the series of the Legal Hand-Books, it was the urgent desire of the Publisher that each subject should be confined within a separate part; but the department on which this little volume treats was found to be so profuse of interest, and so full of detail, that any attempt to comprise the whole treatise within the prescribed limits was soon felt by its author to be perfectly futile; and he therefore determined, after much consideration to abide by the principle of giving one portion of a subject in a useful and important way, rather than a glimpse of all its parts, without profit from any.

The following pages are confined to realty alone, and consequently to exclude the doctrine of the property issuing out of it. He hopes, however, shortly to remedy the defect, by going

PREFACE.

into the principle of estate in real property, and thus making the subject complete. In the meantime, he trusts that the present brochure will neither be unacceptable nor useless. Its object is not to supersede the advantage of legal assistance, but to inform the client of the nature of his rights, and to aid him with direction in seeking for their support and justification.

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THE
NATURE AND LAW
OF
REAL PROPERTY.

CHAPTER I.

REAL PROPERTY LEGALLY AND SOCIALLY CONSIDERED.

Of all the subjects connected with his social relations, which can occupy the thoughts of a member of society, there are none so extensive and intricate, and few more interesting and important than the nature and mode of government of real property. Forming, as it does, the substance, or substratum, of all those means by which comforts are to be derived, or on which wealth is to be founded, the ramifications of its influence naturally extend into every department of the state. No human being is unaffected by it, however lofty or however low may be his condition among his fellows; and just in proportion as it is wisely divided, safely secured, and rightly transferred, will be stability, and, in a great degree, the prosperity of the realm. All, it is true, do not possess real property; but all immediately, do

more or less remotely, are benefitted by its possession. It naturally assumes a variety of appearances ; and just in proportion to the success of men's ingenuity in giving a character of permanence to their attainment of worldly goods, is the extent of that variety ; for perpetuity, or comparative perpetuity, is the essence of real property.

This is the main difference between real and personal property, that, whereas the latter is of a more shifting and perishable nature, and can in general be with ease transferred from place to place, the former has the converse of these attributes, and cannot in any way be removed from the place or thing from which it is derived, or in which it consists, though the certificates and vouchers for it may. Nor can the proprietorship of it be altered with the same facility as is the case with personal property ; for, being of a more enduring kind, and for that reason, if for no other, it has ever been deemed, that the transference of it should be attended with more of solemnity and dignified form. Being such that it cannot be passed from hand to hand, the presence or subscription of attesting witnesses has been made requisite to the validity of the instruments by which it is conveyed, while the deeds or instruments themselves are required to be more specific in their terms than is the case with others relating to less enduring affairs.

The consequence of all this has been, that the law by which this property is governed has become more varied, and extensive, and intricate, than any