

**TWO DISCOURSES  
DELIVERED IN THE MIDDLE  
TEMPLE HALL, WITH AN  
OUTLINE OF THE COURSE**

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Two Discourses Delivered in the Middle Temple Hall, with an Outline of the Course by George Long

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# TWO DISCOURSES

DELIVERED IN THE

MIDDLE TEMPLE HALL,

BY

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HONOURABLE SOCIETY OF THE MIDDLE TEMPLE.

WITH

AN OUTLINE OF THE COURSE.



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THE two following Discourses were read in November last, by way of Introduction to the Lectures on General Jurisprudence and the Civil Law, which are now delivered in the Hall of the Middle Temple. They are printed with some few additions and alterations, and with a few notes, some of which are intended to shew to what authorities I am under obligations, and others are designed to help those who may wish to carry their inquiries further.

Some things contained in these Discourses, and particularly in the second, which treats, in a short compass, of a very extensive subject, could not be handled completely within such limits; and for this and other reasons there may be error both in my facts and in my judgments. I have, however, endeavoured to state nothing that is not supported by good authority, though on some points there is a difference of opinion among those whose opinions are entitled to respect.\*

Any person who is acquainted with the work of Savigny, '*System des Heutigen Römischen Rechts,*' to which I have often referred, will see how much I

\* For instance, on the *Jus Respondendi*, and the mode in which it was exercised, p. 72.

am indebted to it. This general acknowledgment of benefits received is always due, and should be freely made, even when the benefit is small, and the giver is honoured by the acceptance of his offering. But obligations may be so great, and the character of him to whom they are due so exalted, that the receiver can only present with all humility the tribute of his gratitude and admiration, and express a hope that he has made a worthy use of those lessons of wisdom, to the understanding of which he has diligently devoted whatever of ability he may possess, and whatever time he could command from other and laborious pursuits.

The chapter entitled BRACON is designed to shew that a large part of the Roman Law was received before and during the reign of Henry III. as a part of the Law of England.

*6, Stone Buildings, Lincoln's Inn,  
December, 1846.*



## I.

THE subject of this address will be most appropriately derived from the Report of the Committee of this Society on Legal Education. For the reasons stated in their Report, the Committee "recommend that the first step for the promotion of Legal Education to be taken by this House, should be the appointment of a Reader on Jurisprudence and the Civil Law."—"By the term 'Jurisprudence' the Committee mean to indicate General Jurisprudence, as distinguished from the Particular Jurisprudence of any individual nation."—General Jurisprudence has been properly called a Philosophy of Positive Law, as being something which comprehends the principles of all systems of law. By virtue of its universality, it is rightly called General; and inasmuch as it is a systematic exposition of principles with their logical consequences, it is appropriately called a Philosophy. The Committee also contemplate a comparison of the systems of Jurisprudence of particular nations, which they indicate by the term Comparative Jurisprudence.

The process of discovery may not be, and generally is not, the best method for expounding a thing. The principles of General Jurisprudence are grounded in and derived from the constitution of man's nature; they are developed by the existence of political society. Each society political has something peculiar, which has made it that particular political

society, and given some peculiar character to the notions of positive morality and to the rules of positive law which obtain therein. But if we compare particular political societies, we recognise the same general principles of morality and of law in all of them, under various names and under different forms; and such a comparison furnishes materials for the construction of a philosophy of positive morality, and positive law. The order of instruction may, however, be reversed. The principles of General Jurisprudence, as they are now determined, may be expounded in a systematic way; and thus the first part of the Committee's recommendation will be complied with. The principles of General Jurisprudence may also be explained, or the generalities of abstract rules or principles may be made clearer, by a comparison of such rules or principles as they appear in the jurisprudence of different nations,—wherein both agreements and differences may be noted, and the conformity to and deviations of the particular from the general rule will be made evident; and this will be to some degree a compliance with the Committee's recommendation of a comparison of the jurisprudence of different nations.

By the term Civil Law, the Committee "indicate what may be called Modern Roman Law, that is to say, those portions of the civil law which being of a universal character and applicable to the relations of modern society, have formed the basis of the jurisprudence of many continental nations, and entered so largely into our own." The recommendation to add to the exposition of general jurisprudence, an

exposition of the Roman law, as now received in many European states, is justified by the consideration that the Roman law, by reason of its universality, approaches nearer to a system of general jurisprudence than any other.

The matter which I have thus indicated I purpose now to discuss at some length, and I fear at the risk of being tedious. But, at the commencement of a new course of lectures of so comprehensive a character, it may perhaps not be considered unreasonable if I ask a patient hearing, even if I should run to some length. I have divided the whole of what I have to say, by way of introduction, into two parts, the first of which will treat of the general reasons suggested by the Report of the Committee; and the second, which I shall reserve for the next time when we meet, will treat of the special reasons for cultivating the Roman law in this country, by shewing what it is, how it came to be what it is, and how our own system of law is connected with it.

These two introductory lectures, as they may be somewhat longer than future lectures, so they will also differ from them in the mode of exposition; for the formal manner of address which may be suitable to the present occasion would not be the best adapted to the purpose of teaching.

Before proceeding further, I think it expedient to answer some objections which are made to lectures generally, and which have been especially directed against lectures on law, and to endeavour to correct some misconceptions about the nature of lectures, which appear to be not uncommon. Though some