

INTRODUCTION TO THE LAW OF TENURES

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Introduction to the Law of Tenures by Sir Martin Wright

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SIR MARTIN WRIGHT

**INTRODUCTION TO
THE LAW
OF TENURES**

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TO THE

L A W

J.
O F *W.*

T E N U R E S.

Satius est petere fontes quam sectari rivulos. Lord COKE.

*Profunt minus recte excogitata; cum alios incitent saltem ad
veritatis Investigationem.* FULB. A BARTOL.

By SIR MARTIN WRIGHT,
Late one of the JUDGES of the Court of
KING'S BENCH.

THE THIRD EDITION.

L O N D O N :

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M D C C L X V I I I .

1768

T O

THE RIGHT HONOURABLE
Sir ROBERT RAYMOND, Kt.

LORD CHIEF JUSTICE of the COURT
of KING'S BENCH,

A N D

One of his MAJESTY'S most HONOURABLE
PRIVY COUNCIL.

MY LORD,

THE Honour you have done this
Treatise, by suffering it to pass
your Lordship's Hands without Cen-
sure, hath encouraged me to offer it to
the Publick under your Protection.

The Deference which is justly paid
to your Lordship's Judgment by the
Students and Professors of the Law in
particular,

iv DEDICATION.

particular, and which is equally due from all, who look into our legal Constitution or Polity, cannot fail to give this Piece a favourable Reception, if, upon a second Reading, your Lordship shall think it deserves your Patronage.

My Lord, while I am thus providing for the Success of my Endeavours, I cannot help boasting the Advantage it gives me of declaring to the World, that I am, with the greatest Respect,

MY LORD,

Your Lordship's

most obedient Servant,

M. WRIGHT.

A N

INTRODUCTION, &c.

THE Defign of this Treatise is to shew the Original, the Establishment, and the Nature of TENURES: And because all that Part of our Common Law, that concerneth TENURES, hath Original from the FEUDAL LAW (a), I propose to prosecute it in the following Method.

I. I shall collect, and throw together [in the best Manner I can] so much of the Law or Doctrine of FEUDS, as seems necessary, and wanting to a right Apprehension of TENURES.

(a) Vide Sir Hen. Spelman's Posthum. Treatise of Parliaments 57. 58. Posthum. Treatise of Feuds and Tenures by Knight-Service per totum; and Gloss. ad verbum Feodum. Crag. de jure feud. L. 1. dieg. 7. And Philips his Treatise of Tenures in Capite, and by Knight-Service, per totum.

B

II.

2 *An Introduction to the*

II. I shall endeavour to discover the Time when, and the Authority or Law it self, by which FEUDS or FEES were established in *England*, and by which the Law of FEUDS became a Part of our COMMON LAW: And shall take occasion to shew that WARDSHIP, MARRIAGE, RELIEF, and the like FRUITS [of seeming Grievances] of TENURE were either properly FEUDAL, or that they prevailed among us as such, in Consequence of our own Consent to the Introduction or Fiction of TENURES.

III. I shall consider the main Principles, Qualities, and Rules of TENURE, and shall shew that they are plainly FEUDAL, and that they are to be accounted for only as such.

Law of Tenures. 3

C H A P. I.

AS I do not mean to exhibit a tedious or minute Treatise of FEUDS, I shall not prejudice or perplex the Reader with trifling Etymologies (b), imperfect Definitions (c), or contradictory Glosses: But shall confine my self to such Texts as are generally agreed, and shall offer such an Account of the Policy and Nature of FEUDS in general, as may supply the Want of a formal Definition; and shall barely propose Mr. *Sommer's Etymon*, because it seems too rational to be slighted, and is in Truth too good a Basis to be neglected.

(b) Whereof there are many. *Du Fresne Gloss. ad ve b. Feudum. Somner Treatise of Gavelt. 104. Stry Exam. jur. feud. cap. 2. §. 1. Crag. de jure feud. 40, 41.*

(c) It being impossible to warrant, or suggest the several Kinds of Modern or improper Feuds, within the Compass of any Definition or Description whatsoever: Upon which Account the Feudists say, that *Omnis definitio in jure periculosa est.* Vid. *Crag. de jur. feud. 42, 43. Zasius in usus feud. 3.*