

ROMAN LAW IN MEDIEVAL EUROPE

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Roman law in medieval Europe by Paul Vinogradoff

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PAUL VINOGRADOFF

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MEDIEVAL EUROPE**

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IN
MEDIÆVAL EUROPE

BY

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PREFACE

THE sketch of a great historical process presented in the following chapters is based on lectures delivered in the spring of 1909 as an advanced historical course on the invitation of the University of London. I have not attempted to trace the history of Roman Law in the Middle Ages in all its details or even in all its stages, but I have tried to characterise the principal epochs of this development in Western Europe. One of the reasons for publishing this essay consists in the fact that there is no English account of the mediæval life of Roman Law similar to the masterly tracts of Modderman and v. Below. I have given references at the foot of the pages very sparingly, and have cited in connection with each lecture only the books which have been used in preparing it. But a few fragments from the texts have been added in an Appendix to illustrate some points as to which it was important to

PREFACE

consider the very words of the original authorities.

I take this occasion to thank the Dean and Chapter of Worcester for the loan of their famous MS. of Vacarius' *Liber Pauperum*.

P. VINOGRADOFF

OXFORD,
October, 1909

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ROMAN LAW IN MEDIÆVAL EUROPE

LECTURE I

DECAY OF THE ROMAN LAW

Principal authorities: *Mommsen*, Ostgothische Studien in the Neues Archiv für ältere deutsche Geschichtskunde, XIV, 1889; Notitia dignitatum, ed. *Seeck*, 1876; Codex Theodosianus, ed. *Mommsen et Krilger*, 1905; Lex Romana Visigothorum, ed. *Haenel*, 1838; *Conrat (Cohn)*, Das Breviarium Alaricianum, 1903; *Conrat (Cohn)*, Der westgothische Gaius; der westgotische Paulus, Verhandlungen der Kon. Akademie van Wetenschoppen te Amsterdam, N.R. VI, 2; and VIII, 4. Lex Romana Curiensis, ed. *Zeumer*, in the Monumenta Germaniae Historica, Leges, V; *H. Brunner*, Deutsche Rechtsgeschichte, 1906, I², especially §§ 35 and 52; *Savigny*, Geschichte des römischen Rechts im Mittelalter, I, II; *K. Neumeier*, Die gemeinrechtliche Entwicklung des internationalen Privat und Strafrechts bis Bartolus, I, 1901; *A. von Halban*, Das römische Recht in den germanischen Volksstaaten, I, II, III, 1899-1907; *J. Ficker*, Untersuchungen zur Erbenfolge der ostgermanischen Rechte, I-V, 1891-1902; Leges Visigothorum, ed. *Zeumer*, in the Monumenta Germaniae historica, Leges, in 470; Leges Langobardorum, ed. *Bluhme*, Mon. Germ. hist. Leges, fol. IV; Formulae regni Francorum, ed. *Zeumer*, in the Mon. Germ. hist., 470; *H. Brunner*, Zur Rechtsgeschichte der römisch-germanischen Urkunde, 1906; *Fustel de Coulanges*, Histoire des institutions de la France, especially Les origines du système féodal, 1890;