

Contents

Preface	v
Table of Statutes	xiii
Table of Cases	xxi
Kings and Queens of England since 1066	xliii
Table of Abbreviations	xl

Part one

- 1 Law and Custom in Early Britain 1**
 - 'Communal' Justice 3
 - From Communal to Personal Authority 8
 - Further Reading 10

- 2 Origins of the Common Law 12**
 - Regional and Itinerant Royal Justice 14
 - Central Royal Justice 17
 - Effects on Local Justice 22
 - The Boundaries of English Law 27
 - Further Reading 34

- 3 The Superior Courts of Common Law 37**
 - The Resurgence of the King's Bench 41
 - The Exchequer of Pleas 47
 - Uniformity and Abolition 49
 - Further Reading 51

- 4 The Forms of Action 53**
 - Originating an Action 53
 - Types of Original Writ 57
 - Judicial Writs 64
 - End of the Forms of Action 67
 - Further Reading 69

- 5 The Jury and Pleading 71**
From 'Proof' to 'Trial' 72
Medieval Pleading and Legal Development 76
The System Transformed 81
Decline of the Common-Law System 86
End of the Common-Law System 90
Further Reading 95
- 6 The Court of Chancery and Equity 97**
The Chancery 99
Law and Equity 105
Practical Defects of the later Chancery 111
Reform and Abolition 113
Further Reading 115
- 7 The Conciliar Courts 117**
The Court of Star Chamber 117
The Court of Requests 119
Regional Conciliar and Equity Courts 121
The Courts of the Admiral and Marshal 122
Further Reading 124
- 8 The Ecclesiastical Courts 126**
Effect of the Reformation 130
Further Reading 132
- 9 Judicial Review of Decisions 135**
Proceedings in Error 136
Development of the Appeal 138
The Prerogative Writs 143
Administrative Law 151
Further Reading 153
- 10 The Legal Profession 155**
The Medieval Profession 156
The New Profession 162
The Judiciary 165
Civilian Advocates 169
Legal Education in the Universities 170
Further Reading 172
- 11 Legal Literature 175**
Glanvill and *Bracton* 175
Formularies 177
Reports of Cases 178
Treatises 186
Further Reading 192

- 12 Law Making 195**
 The Common Law 196
 Equity and Legal Change 202
 Legislation 204
 Law Reform Movements 212
 Further Reading 220

Part two

- 13 Real Property: Feudal Tenure 223**
 Tenure 223
 Feudalism and Land Ownership 229
 The Lord's Rights at Common Law 237
 Further Reading 243
 Table B. Types of property 246
 Table C. Types of tenure 247
- 14 Real Property: Feudalism and Uses 248**
 Effect on Feudal Law 252
 Further Reading 258
- 15 Real Property: Inheritance and Estates 259**
 Alienation 260
 The Law of Inheritance 265
 Provision for Spouses and New Families 269
 Reversions and Remainders 274
 Further Reading 276
 Table D. Estates in land 279
 Table E. Modes of conveying real property 279
- 16 Real Property: Family Settlements 280**
 Remainders and Executory Interests 284
 Powers 289
 Trusts 290
 The Strict Settlement 293
 Further Reading 296
- 17 Other Interests in Land 298**
 The Term of Years 298
 Tenancy at Will 306
 Villein Tenure and Copyhold 307
 The Trust as an Interest in Land 309
 Mortgages 311
 Further Reading 315

- 18 Contract: Covenant and Debt 317**
The Action of Covenant 318
The Action of Debt 321
Gaps in the Medieval Law 326
Further Reading 327
- 19 Contract: Assumpsit and Deceit 329**
Breach of Covenant as Trespass 329
Assumpsit for Nonfeasance 333
Assumpsit in Lieu of Debt 341
Further Reading 346
- 20 Contract: Some Later Developments 347**
Elaboration of Contract Law 350
Privity 353
Contractual Terms 355
Further Reading 361
- 21 Quasi-Contract 362**
The Action of Account 363
Actions on the Case 365
Indebitatus Assumpsit 368
A General Principle 375
Further Reading 377
- 22 Property in Chattels Personal 379**
Modes of Transfer 383
Termination of Private Property in Chattels 387
Interests in Chattels 389
Early Restitutionary Proceedings 390
Detinue 391
Trespass and Case for Chattels 394
Trover and Conversion 397
Further Reading 400
- 23 Negligence 401**
Trespass Vi et Armis and Negligence 402
Actions on the Case for Negligence 406
The Tort of Negligence 409
Further Reading 421
- 24 Nuisance 422**
Remedies for Nuisance 422
Isolated Occurrences 432
Common or Public Nuisances 433
Further Reading 435

- 25 Defamation 436**
 Actions on the Case for Words 438
 Attempts to Abate the Flood of Actions 440
 The Scope of Defamation 443
 Libel 445
 Further Reading 447
- 26 Economic Torts 448**
 Monopolies 449
 Domestic Relationships 454
 Unfair or Deceptive Competition 458
 Intimidation and Conspiracy 459
 Further Reading 464
- 27 Persons: Status and Liberty 466**
 Villein Status 468
 Freedom from Arbitrary Imprisonment 472
 Colonial Slavery and the English Courts 475
 Further Reading 477
- 28 Persons: Marriage and its Consequences 479**
 The Law of Marriage 479
 Unity of Person 483
 Bastardy 489
 Divorce 490
 Further Reading 498
- 29 Pleas of the Crown: Criminal Procedure 500**
 The Initiation of Criminal Proceedings 502
 The Trial 507
 The Avoidance or Mitigation of Punishment 512
 Further Reading 519
- 30 Pleas of the Crown: The Substantive Criminal Law 521**
 Criminal Responsibility 523
 Degrees of Participation 525
 Some Particular Offences 526
 Further Reading 536

Appendix I

- Specimen Writs 539**
 Original Writs 539
 Judicial Writs 548
 Prerogative Writs 550
 Writ of Summons after 1834 552

Appendix II

Specimen Entries 554

An Action of Trespass 555

Proceedings at a Gaol Delivery 558

Index 563