

Contents

Introduction	1
1 ROMAN LAW	6
I Justinian	6
A. The codification project	6
B. The historical background of the <i>Digest</i>	8
C. The importance of the <i>Corpus iuris</i>	9
II The history of Rome	10
A. The Archaic Period	10
B. The Republic	12
C. The Principate	13
D. The Dominate	14
III The evolution of Roman law	16
A. Archaic law	16
B. The <i>ius civile</i>	18
C. Classical Roman jurisprudence	24
D. Post-classical law	28
2 THE EARLY MIDDLE AGES	31
I Traditional Germanic law	31
A. The Germanic invasions	31
B. Traditional Germanic law	32
II Diversity: the principle of the personality of law	34
A. The principle of the personality of law	34
B. <i>Leges romanorum</i>	35
C. <i>Leges barbarorum</i>	37
D. The <i>iudicium parium</i> (“judgement of the peers”)	38
III Unity: Capitularies and canon law	38
A. Royal legislation	39
B. Canon law	40
IV Feudalism	42

3	THE LATE MIDDLE AGES	44
I	Historical evolution	44
	A. Economy	44
	B. Political institutions	45
	C. The Church	47
	D. Science and culture	49
II	The <i>ius commune</i>	50
	A. The discovery of Roman law	50
	B. Glossators and commentators	52
	C. Canon law	57
	D. Decretists and decretalists	61
III	<i>Ius commune</i> and <i>iura propria</i>	64
	A. The relationship between <i>ius commune</i> and <i>ius proprium</i>	64
	B. Legislation	67
	C. The administration of justice	70
	D. Customary law	74
4	THE EARLY MODERN AGE	79
I	A general outline of early modern history	79
	A. Economics	79
	B. Politics: the modern state	81
	C. Church and religion	87
	D. Science and culture	89
II	Jurisprudence	90
	A. Legal humanism	90
	B. The School of Salamanca	96
	C. <i>Usus modernus pandectarum</i> and Roman-Dutch law	100
	D. International law and rational natural law	102
III	The state and law	105
	A. Legislation	105
	B. The administration of justice	107
	C. Customary law	110
	D. The scientific study of national law	110
5	THE BOURGEOIS AGE	113
I	Historical evolution	113
	A. Economy	113
	B. Politics	115
	C. Church and religion	119
II	Law and jurisprudence during the Enlightenment	121
	A. The Enlightenment	121

	B.	Law and society according to the Enlightenment philosophers	122
	C.	Codification projects in Central Europe	123
III		Napoleonic codification	124
	A.	The dream of legal unification in France	124
	B.	Revolutionary projects	125
	C.	The <i>Code civil</i>	126
	D.	The other Napoleonic codes	127
	E.	The expansion of the French codes	128
	F.	An assessment of the <i>Code civil</i>	132
IV		Jurisprudence	133
	A.	The Exegetic School	133
	B.	The Historical School	135
	C.	Pandectism	137
V		Pandectist codification	139
	A.	The <i>Bürgerliches Gesetzbuch</i> (BGB)	139
	B.	Characteristics and intellectual context	140
	C.	The second pandectist code: Switzerland	142
	D.	The expansion of the pandectist codes	142
6		COMMON LAW	144
I		The origins of English common law	144
	A.	The Anglo-Saxon period	144
	B.	The Norman conquest	145
	C.	The introduction of royal justice	146
II		The central courts of common law	148
	A.	The development of the central courts	148
	B.	Uniformity and the abolition of common law courts	150
III		Writs	151
	A.	Remedies precede rights	151
	B.	Writs until 1258	151
	C.	Writs after 1258	152
IV		The rise of equity	153
	A.	The rigidity of common law	153
	B.	Chancery	154
V		Other courts	156
VI		Peculiar features of common law	157
	A.	Lawmaking	157
	B.	Jurisprudence	158
VII		The expansion of the English common law	161
	A.	Europe	161

B.	The United States of America and the British Empire	162
C.	Scots law	163
VIII	Common law and <i>ius commune</i>	164
	<i>Epilogue</i>	168
	<i>Further reading</i>	171
	<i>Index</i>	177