CONTENTS

Preface v Acknowledgments viii Table of dates xiv Maps xv

Chapt	ter 1	
THE	BACKGROUND 1	
A.	Roman law and the Roman Empire 1	
1.1	Roman law and the jurists 1	
1.2	The Corpus Iuris Civilis 2	
1.3	Vulgar Roman law in the West 3	
1.4	Sources of Church law 5	
1.5	The Germanic codes 6	
1.6	The Church of Gregory the Great 8	
1.7	From the ancient to the mediaeval world	10
1.8	The Lombards (or <i>Langobardi</i>) 11	
B.	The formation of Europe 13	
1.9	The early Carolingians and Charlemagne	13
1.10	The successors of Charlemagne 15	
1.11	Education, law and trade 17	
1.12	The Empire in Germany 20	
1.13	The investiture contest 21	
1.14	The eleventh-century recovery 23	

Chapter 2

FEUDAL LAW 26

- 2.1 Definition of feudalism 26
- 2.2 Feudal law and customary law 27
- 2.3 The personal bond 28
- 2.4 Tenure 29
- 2.5 Delegation of governmental powers 31
- 2.6 Judicial proceedings 33
- 2.7 Feudal society and the rest of society 34
- 2.8 The formalization of feudalism 35
- 2.9 Feudal law and academic law: the literature of feudal law 37

Chap	ter 3
	GLOSSATORS 42
3.1	The background to the revival of the study of Roman law 42
3.2	The importance of the Glossators 43
3.3	Approaches to handling the texts 44
3.4	Methods of teaching 45
3.5	Forms of literature: glosses and <i>apparatus</i> of glosses 47
3.6	The Accursian Gloss and its influence 50
3.7	Other forms of literature 52
3.8	Legal education becomes formalized 56
Chap	ter 4
	COMMENTATORS 59
	The period of transition and the Post-Glossators 59
4.1	The Ultramontani 61
4.2	
4.3	Their approach to the texts 62 The Commentators and their teaching methods 63
4.4	The Commentators and men touring
4.5	The literature of the Commentators 64
4.6	Roman law in use by the Commentators 68
Chan	tor 5
Chap	
	ON LAW 72
5.1	
5.2	Canon law in the eleventh century 73
5.3	Gratian and the Decretists 74
5.4	The Decretals 77
5.5	The Decretalists 78
5.6	The canonists and the theory of the 'just war' 80
5.7	The local application of canon law 83
5.8	Canon law procedure 86
5.9	Substantive canon law 88
	oter 6
	LAW MERCHANT 91
6.1	
6.2	Roman elements in the Law Merchant 92
6.3	
6.4	
6.5	Fair and piepowder courts 98
6.6	The financial organization of mediaeval business 101
	oter 7
	E IUS COMMUNE 107
7.1	The definition of the ius commune 107
7.2	
7.3	
7.4	
7.5	
7.6	
7.7	Scotland and the ius commune 120

Chap	ter 8
THE	COMMON LAW OF ENGLAND 125
8.1	The significance of English law 125
8.2	The making of England 126
8.3	Anglo-Saxon institutions of the eleventh century 128
8.4	Procedure in shire and hundred courts 129
8.5	1066 130
8.6	Henry II: the eyre, the jury, and the writ 133
8.7	The curia regis: the growth of the central courts 138
8.8	The creation of the Common Law 140
8.9	English civilian and prerogative courts; local courts 144
8.10	Judicial review of decisions and appeals 149
8.11	Remedies not rights 150
0.11	
Chap	ter 9
FEU	DAL SCOTLAND 155
9.1	
9.2	
9.3	
	Feudal courts and burgh courts 160
9.5	Procedure in feudal Scotland 161
	Early legal literature 162
9.7	The fifteenth century 164
,1	•
Char	oter 10
	MANISM AND REFORMATION 169
	An outline of the sixteenth century 169
10.2	Humanism and its fifteenth-century origins 172
10.3	The French Renaissance 174
10.4	
	Doneau 175
10.5	The techniques of legal Humanism 177
10.6	10 1 1 100
10.7	
10.8	1 101
Char	oter 11
	V IN GERMANY 188
11.1	
11.2	- 400
11.3	
11.4	107
11.5	
	•
Cha	pter 12
	E DEVELOPMENT OF FRENCH LAW 202
12.1	
12.2	

12.3	Legal literature in the sixteenth	
12.4	and seventeenth centuries 205 The parlements and other courts 207	
	Royal legislation 210	
12.5	Royal logislation 215	
Chap	ter 13	
	SEVENTEENTH CENTURY 213	
13.1	The main themes of the century 213	
13.2	Natural Law as developed by Grotius 214 The German school of Natural Lawyers 218	
13.3		220
13.5	English jurisprudence 223	
	eter 14	
-	MAKING OF SCOTS LAW 228 The reception of Roman law 228	
	Legal literature 233	
14.3	The Court of Session 238	
	Other courts 242	
14.5	The legal profession and legal education 244	
Chan	oter 15	
	IGHTENMENT AND CODIFICATION 249	
15.1	The age of the Enlightenment 249	
	Criminal law and the Enlightenment 250	
15.3		
15.4 15.5	The Prussian code 257	
	The Austrian Code 260	
15.7	The Code Civil 262	
	oter 16 DIFICATION IN THE NINETEENTH CENTURY 20	68
	Codification in Italy 268	
16.2	The German Historical School 269	
	The Pandectists 273	
	The BGB and its background 275 The French reaction to codification 278	
	The French reaction to codification 278 The Swiss Code 282	
10.0		
	pter 17	
NEV	W TRENDS IN LAW, 1815–1914 285	
17.1	Public law and liberal democracy 285 The organization of business 288	
17.2	The organization of business 288 The regulation of employment 291	
17.3		
	Harmonization of laws 297	

CILOT	0.04	
THE	TWENTIETH CENTURY AND ON 301	
A.	The old and the new 301	
18.1	Continuing interests 301	
18.2	Codification 302	
18.3	Discrimination 304	
18.4	Socialist law 307	
B.	European integration 308	
18.5	The background 308	
18.6	The foundation of the European Communities	309
	Expansion 311	

Chapter 18

18.8 Recent developments 312

18.9 The sources of Community law 315

18.10 Community law and the individual 318

Appendix 1 THE GLOSSATORS - EXTRACTS 320

Appendix 2 THE ULTRAMONTANI - EXTRACTS 325

Appendix 3 THE CANONISTS - EXTRACTS 328

Appendix 4 THE COMMENTATORS - EXTRACT 332

Appendix 5 THE UNION WITH ENGLAND ACT [1707 cap.7] - EXTRACTS 334

Apependix 6 DÉCLARATION DES DROITS DE L'HOMME ET DU **CITOYEN** 337

Select bibliography 339 Index 357