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THE
MOST MATERIAL PARTS
OF
KENT'S COMMENTARIES,
REDUCED TO
QUESTIONS AND ANSWERS.

BY
JOHN C. DEVEREUX,
COUNSELLOR AT LAW.

UPON THE PLAN AND IN THE PLACE OF KINNE'S KENT.

NEW EDITION.

REVISED AND CORRECTED BY A MEMBER OF THE
NEW YORK BAR.

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P R E F A C E .

THIS is the second of a series of five or more works, upon the same plan, intended for the use of students of the law chiefly, which it is the purpose of the writer to complete without unnecessary delay.

The first of the series, entitled "The Most Material Parts of Blackstone's Commentaries reduced to Questions and Answers," appeared last year. There is already ample reason to believe that it has proved serviceable, and has supplied a want of the profession.

Blackstone's great work must ever continue a *vade mecum*, indispensable to all students and practitioners of the common law, yet a large portion of the learning in the Commentaries on the Laws of England has become, in this country, obsolete or inapplicable. Indeed, if we compare the works of Blackstone and Kent, in their relation respectively to the existing state of the law with us, the superiority of the American commentaries is manifest. The works differ widely, not only in their plan, but in their mode of treating the various topics embraced in them. The first three volumes of Kent are devoted to subjects which, although mostly included in the plan of the English commentator, he has treated superficially or failed altogether to consider. The principles and rules of law set forth in the American commentaries are living truths here, of daily and constant application.

A distinguished American jurist, recently deceased,*

* Chief Justice Duer.

says, speaking of Kent's Commentaries, "They contain all the learning of real and permanent importance that is to be found in the Commentaries of Blackstone, if we except that portion of his work which relates to the English constitution and government, and they supply deficiencies that all the readers of Blackstone admit and regret. They are, indeed, exactly the work that the condition of our country and of the law, and the daily wants of its students and professors, had long demanded; nor would it be easy to define the extent, or limit the duration of the benefits that have flowed, and must continue to flow, from its general reception, use and authority."

This attempt to render the crowning work of Chancellor Kent's useful and distinguished career, into a form calculated to facilitate the acquisition of its valuable contents, is submitted with diffidence, but in the confident hope that it will command a place among works useful to the profession.

It was undertaken and prosecuted, the writer is happy to say, with the knowledge and approval of the Hon. William Kent. He, also, takes pleasure in stating that T. M. Lalor, Esq., author of "The Law of Real Property of the State of New York," published in 1855, has rendered the most valuable assistance in preparing this work.

J. C. D.

NEW YORK, *October*, 1859.

NOTE.—The ninth and last edition of Kent's Commentaries was used in the preparation of this volume.

The numbers in the text, at the end of the questions respectively, refer to marginal paging of the Commentaries, etc.

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KENT'S COMMENTARIES

REDUCED TO

QUESTIONS AND ANSWERS.

LECTURE I.

OF THE FOUNDATION AND HISTORY OF THE
LAW OF NATIONS.

1. *When the United States assumed the character of an independent nation, to what system of public law did they submit themselves?—1*

They became subject to that system of rules which reason, morality, and custom, had established among the civilized nations of Europe, as their public law. They claimed cognizance of all matters arising upon the law of nations, and they professed obedience to that law, "according to the general usages of Europe."*

2. *What are we to understand by the law of nations?—1.*

That code of public instruction, which defines the rights and prescribes the duties of nations, in their intercourse with each other.

3. *Upon what, according to Montesquieu, is the law of nations founded?—1.*

It is founded on the principle, that different nations ought

* See Journals of Congress, Vol. vii. 185. The English judges have frequently declared that the law of nations was part of the Common Law of England; and it is well settled that the Common Law, so far as it may be consistent with the Constitutions of this country, and remains unaltered by statute, is an essential part of American jurisprudence.