

**THE COMMON LAW OF KENT,
OR, THE CUSTOMS OF
GAVELKIND: WITH THE
DECISIONS CONCERNING
BOROUGH-ENGLISH**

Published @ 2017 Trieste Publishing Pty Ltd

ISBN 9780649152827

The common law of Kent, or, The customs of gavelkind: with the decisions concerning borough-English by Thomas Robinson & J. D. Norwood

Except for use in any review, the reproduction or utilisation of this work in whole or in part in any form by any electronic, mechanical or other means, now known or hereafter invented, including xerography, photocopying and recording, or in any information storage or retrieval system, is forbidden without the permission of the publisher, Trieste Publishing Pty Ltd, PO Box 1576 Collingwood, Victoria 3066 Australia.

All rights reserved.

Edited by Trieste Publishing Pty Ltd.
Cover @ 2017

This book is sold subject to the condition that it shall not, by way of trade or otherwise, be lent, re-sold, hired out, or otherwise circulated without the publisher's prior consent in any form or binding or cover other than that in which it is published and without a similar condition including this condition being imposed on the subsequent purchaser.

www.triestepublishing.com

THOMAS ROBINSON & J. D. NORWOOD

**THE COMMON LAW OF KENT,
OR, THE CUSTOMS OF
GAVELKIND: WITH THE
DECISIONS CONCERNING
BOROUGH-ENGLISH**

"Mr. Robinson's book on Gavelkind is a very accurate and excellent law treatise, and generally comprehends everything relative to his subject." (Hargrave's Co. Litt. 10 a, note (3); 171 b, note (5); 175 b, note (4); Petersdorff's Abr. vol. 4, p. 655, note.)

"Mr. Robinson's treatise on Gavelkind is an excellent book, for it not only comprehends whatever is useful in Somner, Taylor, and Lambard, but contains a full account of both tenure and Customal; besides which, it is a complete law treatise on these heads, and is of such authority in the Courts, that it is in general referred to by the Judges, as a direction to them to proceed in the knotty and before unknown points of this tenure and custom." (Hasted's Hist. of Kent, vol. 1, p.p. 312, 313, 2nd edit.)

Robert Gill
Canterbury.

THE
COMMON LAW OF KENT;
OR,
THE
CUSTOMS OF GAVELKIND.

WITH THE DECISIONS CONCERNING

BOROUGH-ENGLISH.

By THOMAS ROBINSON, Esq.,
OF LINCOLN'S INN.

A NEW EDITION,
WITH A SELECTION OF PRECEDENTS OF FEOFFMENTS
BY INFANT HEIRS IN GAVELKIND, ETC.

BY
J. D. NORWOOD, SOLICITOR.

ASHFORD:
HENRY IGGLESDEN, HIGH STREET.

1858.

12/1-29-66

THE
EDITOR'S PREFACE.

THE Editor trusts the present edition will be found acceptable to the Profession. The work heretofore contained much matter which the various alterations in the law have rendered of no practical utility; this portion has been accordingly cancelled, which has considerably reduced the size of the work.

The Editor's additions to the text are inserted within brackets, and his notes are distinguished by being alphabetically numbered. He has added at the end of the work, a selection of precedents of feoffments by infant heirs in gavelkind, and an extract from the Third Real Property Report made in 1832, proposing the total abolition of the custom of gavelkind in Kent.

In conclusion, he begs to state, that no labor has been spared in collecting every decision to be found in the reports and text books bearing on the subject of this treatise, and he has also referred to most of the authorities cited by the Author, which were found to be very correctly cited, and fully to justify the encomium his work has received of being called "an excellent and accurate treatise on Gavelkind."*

ASHFORD, JULY, 1858.

* See Hargrave's Co. Litt. 10 a, note (3); 171 b, note (5); 175 b, note (4); Petersdorff's Abr. of the Common Law, tit. "Borough-English," vol. 4, p. 655, note; Hasted's Hist. of Kent, vol. 1, p.p. 312, 313, 2nd edit.

THE

AUTHOR'S PREFACE.

THERE being already extant three treatises, whose titles bear a resemblance to the present, the Author thinks it incumbent on him to say something in justification of his troubling the public with one more.

Mr. Somner's Inquiry into Gavelkind is limited to the etymology of the term, and the origin and antiquity of the custom, with a few other speculative points.

Mr. Taylor is content with treating in general of the history and etymology of Gavelkind, without any particular regard to the Kentish customs, to which he was an entire stranger.

Nor can the Author better shew the main design of these two writers to be different from his, than

by making use of their own words: "Many other things," says Mr. Somner at the end of his book, "offer themselves to my discourse, that would treat of gavelkind to the full; but they are, I take it, mostly points of common law, which, because they are not only out of my profession, but besides my intention too, which was, to handle it chiefly in the historical part, and that no further than might conduce to the discovery of the *primordia* or beginnings of it, I shall not wade nor engage any further in the argument, lest I be justly censured of a mind to thrust my sickle into another man's harvest."

And, in like manner, Mr. Taylor informs the reader in his preface, that "he presents to his view and examination, not a law case on the tenure of gavelkind (for that would have proved beyond the abilities of one that confesses himself no lawyer, and professes himself ignorant in that practice and study), but only the history of it."

To the account of the Kentish customs at the end of Mr. Lambard's Perambulation of that county, the Author owns himself much obliged; and had that judicious writer professed to have treated of them as fully, as the nature of the subject would have permitted, he would not have attempted it after him. But as Mr. Lambard intended his only as a summary account, so it is, perhaps,

too closely confined to the points in the Custumal; and the Author having the advantage to come after him, has had an opportunity of clearing up some matters left doubtful by Mr. Lambard, and of rectifying others that have the appearance of errors.* But to avoid misleading the reader by any mistaken conclusion of his own, he has given the cases distinct where there is any disagreement; and if he has sometimes ventured to give his own opinion where the direct authority of the books is silent, he thinks he need not caution the reader to give no further credit to it, than as it shall appear to him to be reasonable.

He believes he has omitted no case relating to his subject to be found in any book of authority, either ancient or modern. Nor has he confined himself to the cases already in print, but traced the matter higher than the books, and given the reader all that occurs of use concerning these customs in the records of the proceedings before the Justices in *eyre* for Kent, in the reigns of Hen. 3, Edw. 1, and Edw. 2; and before the Justices of assize for the same county, in the times of Hen. 3, Edw. 1, Edw. 2, Edw. 3, and Rich. 2.

* See post, p.p. 36, 104, 108, 133, 135.