

Indices for
General Doctrines and Private Law

Philosophical Foundations

SCRIPTURE INDEX

Genesis 8: 21, 38

Leviticus 11:45, 71

Acts 15:18, 25

Isaiah 53:5, 136, 137

Matthew 5-7, xxxvii

Matthew 5:45, 54

Romans 4:17-22, 142

Romans 7, xxxvii

1 Corinthians 2:10, 41

1 Corinthians 13, xxxvii

1 Corinthians 15:24, 115

1 Corinthians 15:52, 116

2 Corinthians 5:2, 136

Hebrews 11, 142

GENERAL INDEX

- Achilles, 33
- Adam, 117, 118
 human race one in, 59
- Alexander the Great, 32, 33
- Antigone, 133, 134
- Aristotle, 48
- atonement, xv
 and justice, 135, 136, 137, 139
- Augustine, 116
- Bahrdt, Karl Friedrich, 70
- Calvin, John, 103, 120
- causal nexus, 31, 32, 34
- choice
 absolute, 21
 between good and evil, 93
 empirical, 22
 freedom of, 92
 human, in the development of law
 and state, 1
 infinite, 21, 22
 primordial, 21
 unending creative, xxxix
 will, as the power of, 89
- Christ, Jesus, xv, 82, 141
 atonement by, 135–42
 humanity's original idea in God, 59
 kingdom of, 114
 salvation in, 142
 Schleiermacher, 154, 156, 157,
 158, 159, 161
 vicarious satisfaction of, 135
- church, 73, 114
 body of Christ, 17
 Catholic, 51, 121
 centrality of vicarious satisfaction
 of Christ, 135
 doctrine of, 103
 doctrine of man, 41
 doctrine of with regard to free will,
 100
 of God
 collective ministry, 60
 humanity united in, 60
 position of, 141
 practical life proceeds from, xxxvii
 Protestant, 103, 117
 relation to the state, 63
 church and state, xxvi, 42, 62
 Rothe's doctrine of, 40
 civil order, xiv, xxxvii, 62, 63, 71, 115,
 129
 as ethical world in the fallen
 condition, 113–22
 versus state of nature, 113
 cognition, xxx, 43–53, 57, 59, 67
 conscience, 24, 48, 69, 81, 91, 93, 94,
 96
 Covenant, New, 41, 142
 crime, 104, 125, 126
 versus sin, 123
 Descartes, René, 49, 51
 Hegel's system the outworking of
 Cartesianism, 51
 Erdmann, Johann Eduard, 51
 ethic, ethics. *See* Part II, *passim*
 and creative freedom, 29
 and law, 1
 Christian versus Spinozist,
 Kantian, Hegelian, 65
 civil order as ethical world in the
 fallen condition, 113–22
 concept of ethically permissible, 86

- definition, 53
 divine will and human will, 77
 ethical command, 87, 131
 ethical freedom, 21, 22, 91, 92, 93,
 94
 ethical kingdom, xiv, 114, 119,
 126, 129, 132, 133, 137
 ethical motive, 81
 ethical necessity, 21, 23, 92, 131
 ethical power, 71, 77, 81, 86, 113,
 123, 125, 126, 127, 130, 132,
 133, 134, 136, 137, 141
 ethical world, 18, 41, 54, 56, 57, 60,
 61, 66, 71, 72, 73, 74, 81, 83, 84,
 86, 94, 101, 105, 109–22, 123,
 125, 126, 131, 137
 eudaimonistic versus rationalistic,
 67
 God as the only true source, 65
 objective versus subjective, 61
 peculiar to each nation, 59
 twofold principle, 72
 universal and individual, 75
- faith**
 as virtue, 58, 140–42
 community of, 114
 Hegel, 151
 philosophy does not resort to, ix,
 147
 provides subjective certainty, 49
 put into scientific form by
 theology, 146
 Schleiermacher, 153, 156, 157, 158
 theology impossible without, 144
- Feuerbach, Ludwig, 22, 25, 26, 70
 Feuerbach, Paul Johann Anselm von,
 xxxi
 Fichte, Johann Gottlieb, xxvii, xxxi, 8,
 11, 12, 17, 38, 43, 45, 47, 50, 60,
 65, 66, 67, 80, 85
 church as community of morality,
 56
- idealism, 94
 Francke, August Hermann, 56
freedom
 absolute, 66
 and necessity, 26
 as unending creative choice, xxxix
 caricature of, 120
 creative, 27, 28, 29, 35
 creative versus ethical, xii, 21
 divine, 34
 ethical, 89–109
 highest, 83
 human, 52, 123
 in Hegel, 90
 in Kant, 90
 in Spinoza, 90
 kingdom of, 114
 of God, viii, xxxix, 37
 inseparable from His
 personality, 21
 of man under God, 124
 of the individual, 119
 of the spirit, 85
 spiritual, 82
- French Revolution, 31
 Gerhard, Johann, 118
God
 freedom of, viii, xxxix
 inseparable from personality, 21
 kingdom of, xi, xxviii, xxxiii, 17, 18,
 33, 34, 37, 38, 39, 41, 61, 72, 85,
 110, 112, 113, 114, 117, 124,
 128
 personality of, viii, xxxvi, xxxix, 5–
 17
 will of, 13, 78
 coincides with the good, 65
- Goethe, Johann Wolfgang von, 46,
 111
 Göschel, Carl Friedrich, 118
 Greek principle of beauty, 32
 Groen van Prinsterer, Guillaume, xvi

- Grotius, Hugo, xxvii, xxviii, 69
 separation of morality from
 religion, 55
 supposition that God does not
 exist, 55, 65
- Haller, Albrecht von, 35
- Harleß, Gottlieb Christoph Adolph,
 102
- Hegel, G. W. F., xxvii, xxviii, xl, 5, 6,
 7, 8, 9, 10, 11, 13, 14, 18, 19, 22, 24,
 28, 31, 33, 35, 38, 40, 43, 44, 47,
 48, 49, 50, 51, 53, 56, 57, 61, 65,
 66, 67, 68, 70, 73, 80, 81, 83, 86,
 89, 90, 95, 97, 98, 100, 113, 114,
 124, 128, 131, 132, 147
 definition of “in itself” versus “for
 itself”, 12
 his system is the outworking of
 Cartesianism, 51
 morality, 74, 77
 philosophy of history, 35
 relationship of theology to
 philosophy, 149–51
 state, 121
 the family, 68
 the state, 39, 68
 view of Christ, 74
 vindicated objective law against
 subjectivism, 75
 worldview of, 12
- Historical School of Jurisprudence, 59
- history, xxxii
 laws of, 24
 made possible by God’s personality
 and freedom, 37
 of religion, 70
 world, 8, 12, 32, 34, 37, 39–41, 70,
 97, 99
 perfectibility in, 39
- Hobbes, Thomas, 79
- imputation, 104–6, 139
- Jacobi, Friedrich Heinrich, 48, 50
- Joshua, 33
- Judas, 96
- jurisprudence, 2, 124
 defined, 1
- justice, xv
 and atonement, 135, 136, 137, 139
 commutative, xv
 definition, 123
 distributive, xv
 Hegel, process of the will, 132
 idea of, 123, 124, 131, 132
justitia commutativa, 129
justitia distributiva, 129
justitia particularis, 129
justitia universalis, 129
 presupposes kingdom, 124
 protective, xv, 123, 124, 129, 131
 retributive, xv, 123, 125, 129, 130,
 131
 twofold character of, 123
- Kant, Immanuel, xxvii, xxviii, xxxi,
 xxxv, xl, 11, 17, 22, 37, 44, 45, 48,
 49, 50, 51, 53, 56, 66, 67, 68, 73,
 79, 80, 82, 85, 90, 92, 97, 131, 140
 morality, 67, 69
- kingdom
 ethical. *See* ethical kingdom
 of God. *See* God, kingdom of
 of personality, 127
 personal, 136
 upstart, essence of transgression,
 125
- Laos, house of, 133, 134
- law
 derived from the ethic, 111
 doctrine of, defined, 1
 ethical, xiv, xxix, 77, 81
 Kant, 67
 externality of, 41
 flows from the spirit of
 community, 111

- laws in nature, xxxii
- laws of nature, 24, 79, 140, 141
- moral, 23, 54
- Mosaic, 33
- natural, xxviii, 23
 - Grotius, Kant, Rousseau, xxviii
- natural laws, xxix, 1
- objective
 - secured by Hegel, 75
- of God, 82
- of nature, 55
 - based both on holiness and will
 - of God, 72
- of reason, 113
- physical laws, 94
- positive
 - final rationale of, 72
 - rationalist, 141
 - self-preservation, xxix
 - versus morality, xiv, 111, 121
- legal institutions, 1, 2, 18, 24, 29
 - organic character, 18
- legal science, ix, xxxi, xxxiv, 2
- Leibniz, Gottfried Wilhelm, 28, 29, 45, 96, 129, 147
- Louis XIV, 31
- Louis XV, 31
- Louis XVI, 31, 133
- love. *passim*
 - and satisfaction, 82
 - as ethical motive, 81–84
 - pathological, 82
 - versus abstract, 83
- Luther, Martin, 40, 54, 102, 103, 117
 - the state, 117
- Marheineke, Philip Konrad, 42
- Melanchthon, Philip, 69, 102, 130
- mental illness, 105
- Möhler, Johann Eduard, 55
- morality, 61, 73, 82, 109, 110, 111
 - and religion, 53, 54, 56, 77, 123
 - as part of ethics, 53
 - Christian, 59
 - defining characteristic, 73
 - motive, 84
 - separated from religion, 55
 - versus law, xiv, 111, 121
- Moses, 33
- nature, x, xxxiv, 9, 17, 26, 35, 39, 44, 56, 65, 77, 79, 114, *passim*
 - corrupt, 117
 - God as, 80
 - in God, 13
 - kingdom of, 113
 - laws of, 24
 - Rothe, 54
 - Schelling, 45
- necessity
 - and freedom, 26
 - and purposiveness, 31
 - ethical, 21, 23, 92, 131
 - metaphysical, 28
- Nicolai, Friedrich, 70
- organic, the
 - the imprint of personality in the impersonal, 18
- organism, xii, 10, 17
- ought, the, 77
- pantheism, viii, x, xxvi, xxvii, xxxix, 5–9, 21, 29, 73, 86, 89, 98
 - critique of personality, 6–8
 - Hegel, 5, 7, 9, 51, 89
 - logical, 51
 - Schleiermacher, 77
 - Spinoza, 5, 89
 - wrapped in Christianity, xxix
- Pascal, Blaise, 148
- Pelagianism, 103
- perfection
 - state of, 37, 40, 41, 55, 61, 110
- personality, xii, *passim*
 - completed, archetype of man, 71
 - of God
 - as world principle, 5–17

- inseparable from His freedom,
 21
 pantheist critique of, 6–8
 tendency of the creation toward,
 17–21
 the good as essence of the person,
 xiii, 66
 philosophy
 abstracts from the personal, 83
 and revelation, 162–64
 develops out of religion, 56
 divided between empiricism and
 rationalism, 51
 does not resort to faith, ix, 147
 genuine versus deleterious, xxxvi
 Hegelian, 9, 99
 Hegelian versus French, 19
 its problem is to explain free will,
 99
 judgment over, xxvi–xxix, xxvi
 Kantian, 51
 legal
 definition of, 2
 rationalist, 113, 114, 130
 needs purification by theology, xxxi
 pretensions, xxxi
 proper role, xxx–xxxiv, xxx, xxxvii
 relation to theology, xv
 relation to theology like state to
 church, 145
 relationship to theology, 143
 Hegel, 149–51
 Schleiermacher, 149–51
 revelation as solution key for, 146–
 48
 solution key found in revelation,
 xxxiii
 speculative, 31–33, 34, 37, 41, 42,
 51, 57, 73
 standpoint respecting
 revelation, 162
 views current conditions as
 eternally necessary, 99
 Plato, xxxv, xxxvi, xxxvii, 10, 119, 121,
 125, 129
 anamnesis, 48
 predestination, doctrine of, 103
 prius, 11, 44
 Proudhon, Pierre-Joseph, xxxi
 providence, 14, 15, 23, 25, 27, 31–37
 providential plan in history, xxxii
 the world plan as providential, 97
 Pufendorf, Samuel, xl, 56, 69, 72, 79,
 118
 punishment, 124–40
 purpose
 and creation, 25
 and world plan, 97
 divine, 23
 original
 of the ethical world, 112, 113
 world, 69
 purposiveness, 28
 as cause of the existence of things,
 31
 regeneration, 102
 religion
 and morality, 53, 54, 56, 77, 123
 public, xxxvii
 revelation. *passim*
 and philosophy, 162–64
 pertains to theology, xvi, 145
 solution key for philosophy, xxxiii,
 146–48, 164
 Richter, Heinrich Ferdinand, 129
 Romeo and Juliet, 133
 Rothe, Richard, 40, 54
 Rousseau, Jean-Jacques, xxvii, xxviii,
 119
 state, 119, 121
 satisfaction, 84, 87, 90, 91, 100, 120,
 126, 127, 135, 137, 138, 139
 and love, 82
 and natural existence, 86

- of the person, 84
- self-satisfaction, 80, 100
- Schelling, Friedrich, 12, 13, 14, 18, 29, 31, 34, 35, 45, 50, 73, 83, 92, 95
- Schleiermacher, Friedrich, 41, 54, 65, 68, 73, 75, 77, 130, 131, 138
 - faulty understanding of
 - relationship of revelation to philosophy, 163
 - on virtues, 78–79
 - relationship of theology to philosophy, 151–62
 - religion and morality, 56
- science
 - must acknowledge God, viii–x, xxxiv–xxxvii
 - turnaround of, xxvi, xxix, xxx, xxxi, xxxv, xxxvii
- self-determination, 89, 90, 91, 119
- semi-Pelagianism, 103
- sin, 104, 125, 126
 - versus crime, 123
- Spinoza, Baruch, 6, 8, 9, 28, 29, 33, 44, 50, 65, 80, 83, 89, 90, 97, 124
 - basic vision, 6
- spirit
 - absolute, 18
 - world, xxviii, 18, 40, 86, 91, 98
- Stahl, Friedrich Julius
 - and the Revolution, xvii
 - contribution to understanding of the Christian worldview, xvi
 - Lutheran orientation, xvi
- state of nature, 113
- state, the
 - and law, form the civil order, 62
 - and punishment, 127–29
 - Augustine, 116
 - Christian, xxix, xxxi
 - concept of, 113
 - doctrine of, 1–3
 - Göschel, 118
 - Luther, 117
 - natural doctrine of, 1
 - Plato, 119
 - power of, xiv, 114
 - restrictions on, xv, 115
 - relation to the church, 63
 - Rousseau, 119
 - sustains the civil order, 62
 - theocratic, 114
 - Thomasius, 118
- Strauss, David Friedrich, 6
- Strigel, Viktorin, 102
- subjectivism, vii, viii, xix, 153, 161
- synergism, 103
- Tecla, 134
- theology, 42, 49
 - and the task of purifying philosophy, xxxi
 - idea of justice is common to it and to jurisprudence, 124
 - needs to explain rebirth, 99
 - philosophical, could not arrive at faith, 141
 - purifies philosophy, xxxi
 - relation to philosophy, xv
 - relation to philosophy like church to state, 145
 - relationship to philosophy, 143
 - Hegel, 149–51
 - Schleiermacher, 149–51
 - speculative, 7, 18, 83
 - theologians, 17
 - tasked to reconcile grace and free will, 104
- Thomasius, Christian, 67, 118
- time, 51
 - and logic, 46
- Trendelenburg, Friedrich Adolf, 45, 46
- Valentinus Albertus, 118
- Vatke, Wilhelm, 56, 57, 58
- virtue, virtues, 58, 66, 71, 74, 78, 83,

- 86, 102
 faith as, 140–42
 heathen as brilliant vices, 102
 justice as, 129
 love the highest ethical, 82
 moral versus religious, 54
 Schleiermacher on, 78–79
- vision (*Anschauung*)
 and view, 47
 Christianity, 37
 defined, 43–44
 ethical, 109
 ideas as, 23
 impersonal versus personal, 47–50
 moral, 110, 121
 of creation, 53, 77
 pantheist, xxx
 Spinozan, 5
 translation of, xix
- voluntary principle
 insufficiency of, 116
- will, the, xiii, 10, 18, 32, 66, 70, 79,
 89–109
 and punishment, 128, 136
 and the good, xiii
 coincides with the good, 84
 dialectical process of, 32
 eternal positive content of, 66
 eternal quality of, 69
 free, problem of, 94–103
 God's, coincides with the good, 65
 individual versus collective, 110
 separated from the ought, xiv, 77
- Wolff, Christian, xxvi, 56, 79, 84
 conception of morality, 53
 morality, 67
- worldview
 based on personality of God, 15
 Christian, x–xi, 74
 explains what science cannot,
 109
 defined, xi, xxi, 2
 Hegel, 12
 translation of, xix

Principles of Law

INDEX

N.B.: The page numbers given in the Index refer to the page numbering of the original edition.

- apanage, 61
- Aquinas, St. Thomas, 26
- Aristotle, 26, 28, 35
- Austrian Law Code, 46
- Baal worship, 78
- Bacon, Sir Francis, 59, 69, 71, 121
- Bavarian constitution, 61
- Bavarian law of precedents, 69
- Bentham, Jeremy, xii
- Berman, Harold, xi, xii
- Beseler, G., 74, 85
- Blackstone, Sir William, xii
- Bryce, James Viscount, x
- Burke, Sir Edmund, x, xi, xiii, 3
 - Burkean school, x, xi
- Carneades, 44
- church, 13, 117, 122
 - and Bible, 43
 - and state, ix, 119
 - as institution, 13, 14, 23, 117, 119, 122
 - government, 14
 - in Corinth, 11
 - institutions, 43
 - procedure, 43
- civil order, 9
- codification, xii, 56, 58, 60–62, 64, 79, 83, 85, 86
 - versus corpus, 63
 - versus register, 64
 - German, x
- Coke, Sir Edward, xi
- common law, xiii
 - Christian, xiv
 - English, xi, xii
 - German, 46, 62, 85
- communis opinio**, 70
- Communist doctrine, 105
- conscience, 42
- conservative, conservatism, ix, xiv
- constitution, 53
- court, xi, 37, 43, 64, 66–70
 - high-court rules of procedure, 69
- court practice, xi, 64, 66–70
 - binding power of, 67
- custom (see “law, customary”), x, xvi, 22, 35, 40, 47, 49–58, 69
- Dahlmann, F. C., 3
- Declaration of Independence*, xii
- Declaration of the Rights of Man and Citizen*, 95
- Decretals, 63
- divinum jus, 43
- duties, ethical versus legal, 94, 96
- Eberti, 86
- Eliot, T.S., xv
- England, 40, 81
 - jury, 84
- entitlement (see also “rights”), 15, 17, 28, 30, 97–100, 102, 103, 105, 107, 113, 116, 125, 127, 128
- equity, 37, 125, 126, 128
 - as opposed to justice, 126
 - essence of, 126
 - of the Romans, 127
 - vagueness, 37
- ethical field, 7

- ethical kingdom, 13
- ethical obligation versus legal obligation, 11, 92
- ethical order, 23, 93
- ethical power, 23
 - law as, 112
 - life relations as, 111
 - of law, 54
 - rights as, 15
 - subject of, 56
- ethical rule, 12
- ethical shape of the common condition, 26
- ethical shape of life, 22
- ethical sphere, 10, 13
- ethical spheres, 39, 40
- ethical standard
 - for law, 46
 - law as, 39
- ethical substance
 - community as, 51
- ethical world, 7, 16, 24, 25, 29, 55, 101, 102
 - divine plan for, 18
 - Hegelian view of, 29, 30
 - plan of, 13, 23
- ethical world order, 23, 102
- ethical world plan, 27
- ethics, 1, 21, 31, 44
 - Hegelian, 29, 30
 - objective, 44
 - subjective, 44
- ethos
 - collective, 20
 - external, 53
 - law as common, 11
 - law as national, 11
 - law as objective, 12, 29
 - objective, 12, 50, 70
- eviction, 38, 66, 82
- external order, 10, 50, 54, 67, 70, 91–93, 125
 - factual relations, see “relations”
 - family, 8, 13, 14, 17, 19, 21, 25, 42, 103, 104, 112, 117, 119, 122
 - Hegelian notion of, 29, 30
 - law, 117
 - law of, 82, 112
 - right of the, 98
 - trust, 120
 - Fichte, J. G., 27, 29, 74, 106
 - Frankfurt in 1848, 86
 - freedom, 12, 21, 22, 27, 28, 34, 36, 38, 43, 56, 57, 92, 93, 97–99, 105–107, 114–116, 119–121, 123
 - not the basis of the legal system, 114
 - French, 84
 - jury, 84
 - French people, 78
 - French Revolution, 58, 74, 95, 106
 - theory of the rights of men, 104
 - general will, 29
 - Genz, F., 3
 - German constitutional law, 61
 - Germanic peoples, 64
 - Germanist movement, 81, 85–87
 - Greeks, 28
 - regarding art, 81
 - Gregory XI, Pope, 63
 - Groen van Prinsterer, Guillaume, ix
 - Grotius, Hugo, 17, 27, 44, 45
 - Gönnner, N.T., 55
 - Hale, Matthew, xi
 - Hallerian school, 95
 - Hegel, G.W.F., 29, 35, 73
 - legal philosophy of, 29
 - Hegelian school, 73
 - Historical School of Law, x, xi, xv, xx, 46, 49, 55, 65, 72, 73, 87
 - rejection of natural law, 46
 - Holmes, Oliver Wendell, xii
 - Homeyer, C. G., 109

- Hugo, G., 73
- idea, 8, 9, 13, 36, 92
 eternal, 34
 ethical, 12, 19–21
 of common existence, 18
 of constitutional law, 45
 of each institution, 23
 of justice, 23
 of law, 54, 91
 of life relation, 19
 of man, 104, 105
 of natural law, 36
 of personality, 18
 of primeval right, 106
 of Providence, 18, 21, 23
 political, 45
- image of God, 7, 9
- institutions, xiii, 1, 2, 7, 12, 16–18,
 22–24, 30, 42–44, 57, 66, 78, 87,
 98, 101, 109, 111–113, 115–117,
 121, 122, 128
 natural basis, 18
- Jewish people, 78
- judicial activism, 37
- jurisprudence, xi, xiii, xiv, 1, 3, 45, 74,
 86
- jury, 84, 85
- jus gentium**, 47
- jus naturale**, 44, 47
- justice, xiii, xvi, 23, 24, 28, 35, 37, 39,
 40, 42, 43, 50, 51, 57, 66, 77, 79,
 83–85, 88, 89, 109, 125–128
 administration of, 88
 civil, 125
 protective, 125
 retributive, 126
- Justinian, 60, 63
- Kant, Immanuel, 27, 99, 105
- Kirchmann, J.H., 84, 86
- Kuyper, A., ix
- law
 and morality, 20
 and popular consciousness, 79,
 80
 and popular sovereignty, 83
 and religious faith, 56
 as force of formation, 18
 as human common existence,
 27
 as human order, 7
 as immediate ethical standard,
 39
 as independent order, 8
 as inheritance, 72
 as objective ethos, 11
 as rule versus individual case,
 12
 binding power of, 35, 36, 39,
 50, 53–55, 62
 boundaries of, 19
 cannot be separated from
 God, 25, 26
 constitutional, 45
 continuity of, 39, 40, 79
 continuity of, as ethical princi-
 ple, 73
 customary, x, 52, 53, 55, 67,
 74, 108
 depends on the state, 24
 detachment from popular
 consciousness, 79
 development of, 39
 entrusted to the people, 9
 ethical power of, 12, 116
 excludes individual conduct,
 12, 13
 Germanic law, 35, 82, 86
 given positive shape by the
 people, 34
 ideas of Providence in, 18
 in the subjective sense, 97, 98
 institutions as object, 12
 learned, 65, 70

- misrepresented by legal philosophy, 25
 nationality of, 78
 natural, 39, 44–46, 91
 natural versus positive, 36, 37, 46, 47
 nature as raw material, 19
 negative character, 20, 21, 92
 not defined by coercion, 12
 not the product of public opinion, 77
 of Christendom, 44
 of Moses, 64
 of nations, 94
 of pledge, 111
 of reason, 44
 only outward shape of life, 11
 order of people and nations, 10
 organic growth of, 41, 51, 73
 popular character, 77, 83, 85–87
 popularity of, 78
 positive, 2, 3, 24, 33–42, 45–47, 69, 70, 72, 74, 91, 104, 105, 109, 127, 128
 positivity of, 33, 36
 private, 29, 80, 81, 85, 103, 104, 107, 112, 114, 117, 119–123
 product of human community, not public opinion, 77
 providential ideas in, 18
 public, 29, 39, 81, 103, 112, 114, 117, 119, 120
 purpose in, 18
 regard for, 35, 54, 55
 relationship to morality, 10
 revealed, 42–44
 sanctity of, 62
 separated from God, 56
 strict, 16, 17
 subsidiary, 37, 46, 61
 system of, 111–117, 119, 122
 twofold purpose, 15
 versus administration, 17
 versus welfare, 17
 vocation of a people, 11
 vocation of human society, 8
 law-ideas, 36, 38, 39, 45–47, 50, 72, 74, 105, 107, 109, 128
 definition of, 36
 legal capacity, 106
 legal consciousness, 50, 51, 53, 56
 subordinate to customary law, 52, 53
 legal obligation, 91, 92
 versus coercibility, 94
 versus moral obligation, 91
 legal philosophy, 3, 19, 45
 Hegel, 29
 misrepresentation of legal philosophy, 25
 legal relations, see “relations”
 legal science, 2, 64, 66, 70
 Continental, xi
 legal system, xii, 111, 113
 freedom, 114
 freedom versus order, 116
 private law and public law, 119
 subordinate character of rights in, 113
legis vicem, 69
 legislation, 37, 41, 46, 51–61, 63, 64, 66, 69, 70, 73, 79, 80, 83, 84, 86, 127
 Leo, H., 2
 Leue, F. B., 86
 liberty (see “freedom”), 103
 Locke, J., xii
 marriage, 7, 11, 13–15, 18, 20, 22, 23, 30, 43, 44, 68, 82, 98, 101, 106, 111, 112, 121

- Maurenbrecher, R., 70
 Melanchthon, P., 26, 35
 Mittermaier, K. J. A., 86
 Moloch worship, 78
 Montesquieu, 77
 national consciousness, 70
 national conviction, 54
 natural law, 33, 36, 37
 German theory of, 104, 105
 coercive, 105
 older school, 109
 natural rights, xii
 naturalness, objection of, 73
 nature of the case, 17, 38, 39, 75, 81, 88
 negligence, 66
 Niebuhr, B. G., 73
 Niethammer, F. I., 29
 opinio necessitatis, 51, 53, 55, 67
 Paul the Apostle, 11
 people, the, xiii-xvi, xix-xxi, xxiii, 1, 2, 9-12, 18, 27, 29, 31, 33, 34, 39-41, 46, 47, 49-52, 55, 56, 58, 59, 62, 64-67, 71, 77-88, 94, 95, 98, 105, 113, 117, 119, 121
 piety, 14, 21, 23, 28, 73, 74
 as characteristic of Historical School, 73
 Plato, 20, 28
 popular character (see "law")
 as emancipation from received law, 87
 false understanding of, 83
 popular consciousness, 49-51, 55
 lacks binding power, 74
 Pound, R., xii
 pragmatism, xii
 praxis, 64, 69, 83
 precedents, 69, 71
 prescription
 and customary law, 108
 natural-law objection to, 109
 presuppositions, 4
 promulgation, 53
 property
 landed, 82
 private, 7, 8, 11, 13-16, 18, 19, 21, 23, 25, 30, 34, 42, 81, 82, 103, 107, 108, 111, 112, 114, 117, 119, 123
 Roman, 87
 Prussian Law Code, 58
 Prussian law of precedents, 69
 public consciousness, 22, 42
 public faith of the nations of Europe, 43
 public opinion, 77
 not a source of law, 77
 Puchta, G. F., 65, 73, 101, 108, 115, 116
 critique of Stahl, 117
 Pufendorf, S., 27
 Reception of Roman Law in Germany, 80ff.
 relations
 common, 18, 21, 24
 ethical, 7
 factual, 18, 25, 38, 108, 111, 112, 116
 in institutions, 12, 13
 legal, 14, 18, 24, 34, 45, 56, 57, 59, 81, 82, 87-89, 107, 108, 111-113, 116, 117, 119, 120, 122
 legal versus factual, 111, 112, 116
 legal versus moral, 14
 life, 18, 19, 24, 34, 56, 57, 59, 97, 99, 101, 111, 112
 pledge, 111
 private, 103, 120
 private-legal, 119, 120
 public, 103, 120
 public-legal, 119, 120, 123

- purpose in, 19, 22, 23, 34, 98, 107
- secular, 64
- state, 93
- revelation, 42, 43
- right of resistance, Lockean, xvi
- rights, 15, 23, 28, 30, 37, 82, 87, 114
 - acquired, 24, 46, 103
 - and protective justice, 125
 - as basis of legal system, 115, 116
 - as ethical power, 97
 - as object of law, 16, 23
 - as secondary principle, 99
 - attributable only to persons, 98
 - cessation of, 107
 - definition, 15, 97
 - ethical conception of, xxiv, 100
 - French declaration of, 95
 - general versus specific, 103
 - inalienable, 106
 - innate versus acquired, 103
 - law not restricted to, 17, 101
 - natural, xii, xiii, 104–106
 - origin of, 107
 - prescription and, 108
 - private versus public, 103
 - public versus private, 123
 - relationship to duties, 99, 100, 102
 - subordinate to law, xiii
- Roman law, xi, 35, 65, 74, 80–83, 85, 86, 113, 123
 - and natural law, 46
 - as Germany's received law, 80
 - first to realize acquired rights, 46
 - first to realize positive law, 46
- Romans, Roman people, 40, 46, 71, 77, 81, 107
- Rousseau, J. J., 29, 45
- Royal Assent, 53
- Savigny, F. C., x, 3, 55, 60, 65, 73, 77, 109, 123
- Schelling, F. W. J., 20, 27, 29
- Schleiermacher, F. D. E., 28
- Selden, John, xi
- Sieyès, E. J., 29
- sources of law, 49, 51, 69
 - arises from vocation, 49
 - arises through outward establishment, 50
 - court practice as, 66–69
 - custom, 51, 69
 - external determination, 70
 - law proceeds from the people, 49
 - legal science not a source, 64
 - legislation, 51, 69
 - ultimately God's world order, 55
- sovereignty
 - popular, and law, 83, 84, 86
 - popular, as natural right, 105
- speculative philosophy, 28
- Stahl, F. J., ix, x, xiii
- state of nature, 25, 45
- state, the, 1–3, 11, 13, 17, 19, 23, 24, 28, 42, 45, 59, 93, 94, 105, 112, 117, 119, 121
 - administration, 16, 17
 - and law, 24, 25
 - church and, ix, 119
 - Hegelian notion of, 30
 - law of, 20
 - natural basis of, 18
- statute (see "legislation"), xxi, xxii, 19, 49, 58, 60, 62, 65, 66, 70, 121
- subjective right (see "rights"), 97, 122, 123
- facultas**, 106
- inalienability of rights, 106

- independent of duties, 99
- innate versus acquired rights,
103
- potentia activa**, 106
- prescription, 108
- public rights, 103
- relationship to duties, xxiv,
100
- subsumption, 114
- suicide, 22
- Sunday observance, 22
- Ten Commandments, 21, 42
- Thibaut, A. F. J., 46, 73
- Thomasius, C., 14, 27
- Toews, John. E., xi
- tralatitium, 71
- Twelve Tables, 64
- utilitarianism, xii
- utility, xiii, 16, 44, 49–51, 57, 120
- volonté générale, 29
- Weber, A. D., 46
- welfare, common/public, 10, 16, 17,
45, 119, 122
- worldview, ix, x, 3, 4, 9

Private Law

ROMAN LEGAL TERMS

N.B.: Many of these terms may be referenced in William Smith, *A Dictionary of Greek and Roman Antiquities*.¹⁴⁰

accessio.....	80	commodatum	95, 106
actio ad exhib. (exhibendum)	68, 97	communio primaeva	57
actio contraria	107	condictio	99
actio de arboribus caedendis	99	condictio indebiti	104
actio in personam	65, 84	consensus	121
actio in rem	65, 184	constitutum.....	108
actio injuriarum	83	culpa.....	195, 196
actiones quod met. caus. (quod metus causa).....	68, 97	culpa levis.....	106, 107
actio Pauliana	68	damni infecti cautio	99
actio publiciana.....	68	datio	95, 102, 109
actio tutelae	99	debitor hereditarius.....	184
actiones de glande legenda.....	97, 99	depositum	106, 184
actiones in rem scriptae.....	70	diffamatio	7
actu	54	dominium.....	76
ad exhibendum.....	99	dominium eminens civitatis.....	34
ad matrimonii onera ferenda	142	dominium directum	76
Aedilian edict	196	dos	82
ager publicus.....	85	evictio	196
ager vectigalis	190	exceptio non adimpleti contractus .	107
alluvio.....	80	exceptio veritatis	7
animus injuriandi	7	existimatio	7
arrogatio	82	facultas dandi.....	195
bona fides	80	fides	102
bonae fidei possessio	67, 91	fiducia	70
calumnia	7	finium regundorum.....	195
capitis deminutio.....	191	habitatio.....	190
casus.....	195, 196	hereditas.....	184, 185
causa	54, 97	impedimentum naturale	195
causa continua	72	injuria	7
cessio actionum	98	in faciendo consist. nequit (servitus in faciendo consistere nequit).....	72, 190
civiliter uti.....	72	in possessorium	87

¹⁴⁰ URL: <https://tinyurl.com/48au6euy>

interd. ret. poss. (interdictum retinendae possessionis)	86	praedictum	184
judicia legitima	86	praetor	56, 67, 85
judicia imperio continentia	86	precarium	106
jus in re, jura in re	72, 76	privilegium	23
jus in re aliena	72, 75	pro possessore	184
jus quaesitum	29	pro herede	184
jus viae, actus, ne luminibus	72	quae privatis quoque jus aliquod in aliena concedit	34
justa causa	80	quasi juris possessor	184
lex Rhodia de jactu	108	querela inofficiosi	181
lit. cont. (litis contestatio)	97	rei vindicatio	78
locatio operarum	166	repudium	143
lucrum	31	res Mancipi	78
Mancipium	193	res licet minima	177
mandatum	107	res propria nemini servit	72
manus	193	respectus parentelae	136
mora	195, 196	salus publica	31
mutuum	95, 106, 107	salus publica suprema lex esto	32
negotiorum gestio	99, 104, 108, 165	servitus in faciendo consistere nequit	72, 190
nihil commune habet proprietas cum possessione	86	societas	107
obligatio	95, 109	solutio	54
obligatio ex delicto	86, 87	specificatio	79
obligationes	98	strictum jus	196
obligationes ex delicto	88, 89	successio ex pacto et providentia majorum	178
pactum de mutuo dando	107	successio universalis	177
pactum hypothecae	101, 102	successio singularis	178
petitorium	87	summa necessitatis	34
pignus	70	turpitudinis	140
possessio	67, 68, 86, 91	universitas facti	177
possessor antiquior et titulata	87	usucapio	78
possessorium	87	utilitas	56
potentia	54	vinculum juris	54
potestas in capite libero	193		
potestas	193		

INDEX

N.B.: The page numbers below refer to the numbering of the original edition.

- Abraham..... 51, 136
 accession 80
 acquisition..... 77ff.
 Acts, Book of 46
 adverse possession 80, 92
 alimony 98, 115
 Ananias 46
 Aquinas, St. Thomas 139, 140, 204
 Aristotle 45, 50
 assets..... 43
 Augustine..... 136, 137
 authority, opposition against all 39
 Babeuf, François Noël 60
 bailment 72
 baptism 123
 Barnabas 46
 Bayer, Hieronymus von 87
 Bentham, Jeremy xiv
 Berlin Political Weekly 34
 Berman, Harold..... xiii, xiv
 Blackstone, Sir William xiv
 blamelessness 7
 Blanc, Louis 60
 Bluntschli, Johann Caspar 198
 Böhmer, J. F. 120, 143
 Bryce, James Viscount xii
 Burke, Sir Edmund xii, xiii, xv
 Caesar..... 56
 calumny 7
 Calvin, John..... 18
 Carpzov, Benedict..... 143
 Catholicism xi, 120, 122, 123,
 125, 130, 132, 133, 138,
 142, 149, 157, 158, 170, 174
 Catholic church
 125, 138, 142, 158
 celibacy 119
 censorship..... 19
 choice 13, 14
 Christ, Jesus..... 47, 113, 118, 122, 158
 Christianity ii, xi-xiii, xvi, xviii,
 xxiv, xxv, 10, 15, 24, 37, 38,
 40, 46, 122-124, 127-130,
 132-134, 143, 144, 147-150,
 154-157, 171, 173, 175, 182
 Christian faith 37, 38
 Christian fear of God 40
 European 38
 church xi, xxiii-xxv, 6, 17, 19,
 23, 32, 38, 40, 46, 114, 118,
 119, 122-134, 137-139,
 142-144, 146, 147,
 149, 152, 155-159,
 173-175
 and state..... xi
 codification..... xiv
 German..... xii
 Coke, Sir Edward xiii
 common good 31
 common law xv
 Christian xvi
 English xiii, xiv
 common utility..... 33, 34
 common welfare 34
 Communism..... xx, 46, 59-61, 63, 64
 godlessness of 64
 community of goods xx, 45-47,
 51, 57, 64
 and Christianity..... 46
 and Communism 59
 compensation 83
 conservatism..... xi, xvi

- Considerant, Victor.....62
 contempt 7
 contract.....xix, xx, xxii, 1, 43, 53,
 60, 82, 84, 91, 92, 95, 97-
 106, 108, 116, 121, 125, 126,
 155, 164, 166, 185, 191, 195
 accessory 108
 business relation, establish-
 ing.....107
 chance 108
 definition of 100
 exchange of performances
 and grants 107
 Kant's system..... 108
 quasi-contracts 99
 Roman system 108
 surrender of a thing against
 its return 106
 unilateral performance ... 106
 Council of State, French 145
 Council of State, Prussian 144
 Council of Trent 126
 court xiii
 court practice..... xiii
 Curia 125, 126
 custom xii
 customary law..... xii
 damage, damages 6, 98, 99, 108, 150
 death penalty 39
 Declaration of Independence xiv
 Declaration Of The Rights Of Man
 32
 defamation 7
 deistic sects..... 155
 dereliction 6
 derivative acquisition..... 81
 discipline, revolt against 39
 divorce xxiv, 16, 17, 39, 114, 115,
 128-131, 138, 142-151, 153
 adultery as sole ground ... 142
 analogous extensions of the
 ground of divorce..... 143
 false grounds 144, 152
 punishment..... 146
 Duke of Sussex..... 115
 easements 71
 emphyteusis 72
 encumbrance 72
 endowment 106
 England, English 28, 115
 peerage 29
 people 198
 entitlement (see also "rights")
 xx, xxvi, 25, 37, 38, 49,
 50, 54, 55, 65, 67-69, 85,
 86, 142, 146, 153, 182,
 188, 191-194
 equality 22, 24
 before the law 25
 false concept of 25
 of goods..... 49, 51
 equity 6
 ethical essence 13
 eunuchs 120
 exchange..... xix, 55, 97, 104, 107,
 109, 191
 expropriation 33-35
 faithfulness 101-105
 as ethical idea of all contrac-
 tual bonds..... 103
 Fall of Adam..... 46
 family xxii-xxiv, 1, 11, 17, 19,
 23, 24, 44, 45, 50, 51, 74, 91,
 96, 111-116, 135-137, 139,
 141, 158, 163, 166, 177, 179,
 182, 183, 192, 193
 characteristics of 115
 definition..... 111, 112
 importance of Hegel..... 116
 love graphically displayed in
 113
 moral character 113
 natural law theory 116
 public dimension 114

- fealty 76, 100
 Fichte, J. G. 2, 116
 forbearances 71
 Fourier, Charles 60, 62
 freedom xvii-xix, xxii, 1-6, 10,
 13-21, 28, 29, 37, 38, 40, 44,
 50, 54, 57, 58, 76, 77, 96-99,
 102-105, 113, 114, 130-132,
 140, 141, 145, 150, 167, 169-
 175, 179, 180
 inalienable 10, 21
 legal 13, 15, 18, 19
 modern error of 20
 moral 13, 14
 of association 19
 unrestricted 19
 freedom of instruction 170, 171
 and religion 172, 174, 175
 French civil code 133, 143,
 145, 146, 151
 French Revolution 30, 40, 47
 Gans, Eduard 89, 90, 180
 Geneva 18
 Gerhard, Johann 137
 German procedural practice 87
 Germany, Germanic
 4, 5, 10, 50, 52, 56,
 57, 68, 70, 73, 74, 76, 78, 85,
 161-163, 173, 181, 182, 189,
 190, 194, 196
 Germanists 74
 Gewehre 68
 God xviii, xx, xxiii, 3, 4, 9, 14,
 15, 17, 19, 20, 22, 37-41, 48-
 50, 63, 64, 117, 122-124,
 130, 133, 135, 138, 157, 158,
 172
 blessing of 48, 49
 dispensation of 50, 62, 63
 fear of 38-41
 leading of xx, 48, 64
 Providence of 62, 63
 Greeks, Greek states
 28, 47, 52, 70, 181, 187, 193
 Groen van Prinsterer, G. xii
 Gros, Karl Heinrich 102
 Grotius, Hugo 10, 34, 63
 guardianship 112, 162, 165, 193
 Hale, Matthew xiii
 Haller, Karl Ludwig von 33
 Hegel, G. W. F.
 5, 11, 28, 57, 63, 73, 74,
 81, 100, 101, 109, 116, 117,
 136, 140, 139, 150, 151, 178,
 185, 187, 196
 Henry VIII 138
 Herder, Johann Gottfried von 187
 Historical School of Jurisprudence
 xii, xiii
 Holmes, Oliver Wendell xiv
 honor 1, 3, 7
 Höpfner, Heinrich 10
 Hugo, Gustav 9
 humanity 40, 41
 principle of 37, 39
 image of God 3, 22, 37
 image of man and property 44
 imprisonment for debt 96
 incest 135, 136, 139, 140, 155
 individuality 13, 15-19
 inequality 22, 30
 inheritance 2, 6, 177ff.
 not **actio in rem** 184
 recognition of 183
 injury 99
 institution, institutions
 xv, xvii, xviii, xxiii, 6, 22, 30,
 32, 34, 38, 39, 44-46, 48, 50,
 51, 53, 55, 56, 67, 71, 72, 75,
 76, 79, 83-91, 98, 105, 111,
 113, 114, 116, 137, 139, 141,
 148, 163, 170, 181-183, 188,
 189, 197, 198
 integrity 3, 5

- interdicts 85
- Jews, Judaism..... 24, 52, 134, 138,
139, 148, 155, 193
- joint stock corporation 74
- justice xv
- Justinian 143
- Kant, Immanuel
2, 10, 25, 40, 57, 65, 78, 100,
102, 104, 105, 109, 116, 145,
164, 185
- Klee, Emil Wilhelm 142
- Koch, Christian Friedrich 108
- Kuyper, Abraham..... xii
- landholding..... 23
- Lauterbach, Wolfgang Adam 143
- law (see also "Roman law")
Athenian 181
Attic..... 67, 148, 163, 180
canon 87, 105, 120, 123,
..... 129
Germanic 56, 68–70, 73–74
Mosaic, enduring signifi-
cance of
..... 138, 182
natural 10, 28, 57, 81, 92,
101, 102, 105, 116, 164, 195
private..... 1, 2
- law-idea..... 53
- legal bond 54
- legal capacity..... 1, 3, 8
- legislation xii, 8, 18, 34, 69, 80,
82, 84, 85, 124, 125, 128-
130, 133, 134, 143, 145–148,
152–155, 167
- Levellers 47
- libel..... 7
- liberalism..... 31
- lien (see "pledge, law of")
69, 72
- Linde, Justin Timotheus Balthasar
von 87
- Locke, John xiv, 58
- Lord's Supper 123
- Lot 51
- Lot's daughter 135
- Luther, Martin..... 130, 131, 145
Lutheranism 127
- man
concept of..... 1
set in the creation as lord. 43
- manufacture 79
- marriage..... xvii, xxii–xxiv, 1, 6, 8,
17, 74, 75, 100–102, 104,
111, 113–153, 155–159, 161,
181, 183, 193
arbitrary repudiation 151
as ethical bond..... 149
as higher given bond 152
by no means a contract... 121
civil, in England 134
dispensation 137, 138
dogmatic character..... 124
ethical bond 150
first human pair 136
free consent..... 121
jurisdiction over, primarily
the state..... 128
life satisfaction versus ethi-
cal form..... 149
Lutheran countries..... 127
marital community of goods
..... 141
mixed, and upbringing of
children..... 159
mixing confessions 156–158
mixing religions sinful... 155
monogamy 118
natural relation elevated
into the ethical..... 118
near relationship..... 134
not a sacrament..... 123
personalization of natural
principles..... 117
place of property in 141

- polygamy 118
 primarily ethical and civil,
 not religious 121
 religious character 122
 restriction on 134ff.
 role of church and state
 128–130, 132–134
 union of sexes in a complete
 life and legal community 119
 versus parent-child relation-
 ship 135
 Matthew, Book of 142
 maxim of coexistence 4, 6, 19
 Melancthon, Philip 137
 Michaelis, Johann David 138
 Mohamedans 155
 monogamous peoples 148
 Mosaic year of Jubilee 50, 182
 Müller, Johannes von 187
 Munzer, Thomas 47
 Napoleon Bonaparte 145
 national wealth, doctrine of 51
 New Covenant 39, 123, 138
 New England 47
 Nitzsch, Carl Immanuel 140
 obligation 37, 38, 54, 55, 66,
 68, 87, 88, 95–100, 102–106,
 108, 109, 115, 147, 163, 189–
 193, 196, 204
 classes of 106
 concept of 54
 origin of 98
 tort 98
 transaction 98
 occupation 6, 7, 10, 17, 48, 52,
 53, 61, 62, 77, 78, 80, 81, 98
 office 44
 Old Testament 39, 135, 138
 Oldendorp, Johann 10
 organic bond 75, 112, 113, 135
 Oriental priests 47
 Orientals 28
 ownerlessness 79
 pagan, paganism 148, 155
 pantheistic sects 155
 paternal power 1, 161ff.
 and adoption 164
 and assets of children 163
 and freedom of instruction
 169
 and guardianship 165
 and natural law 164
 and servant relationship. 166
 concept of 161
 duration 162
 Peasants' Rebellion 47
 perpetual lease 73
 personality 27, 28, 43
 and property 44
 idea of xvii, 2
 principle of 1
 right of 29
 Peter, the Apostle 46
 Pfordten, Ludwig Karl von der
 108
 Pharisaism 40
 Pilgrim Fathers 47
 Plato 45, 46, 50
 pledge, law of (see "lien") 70
 polygamous peoples 148
 poor relief 49
 Pope, the 138
 Possession xix, xxi, xxii, 6, 8,
 46, 49, 51, 52, 58, 61, 63, 66–
 68, 72, 78–93, 95, 178, 181,
 184, 185, 194, 197
 Pound, Roscoe xiv
 Praetor 56, 67, 85, 86
 pragmatism xiv
 privilege, **privilegium** 23, 24
 procreation xxiii, 1, 111, 117–
 119, 122
 Promised Land 52
 property 48, 49

- and individuality 44
- acquisition of.. 61, 62, 76, 77
- as total power..... 71
- as vocation.....xix, 44
- contractual establishment
..... 57
- control..... 55, 56
- derived from authority 81
- divided 75
- in the broad sense (prop-
erty*)..... xix, 1, 30,
43-45, 48-50, 53-56, 65-71,
73, 74, 76, 81, 95-100,
104, 112, 115, 141, 177-
180, 183, 185, 194
- in the strict sense..... xix-xxi,
1, 2, 5, 8, 10, 24, 30-34,
43-64, 67, 69-93, 95,
97-101, 105, 178-180,
182, 185, 186, 189, 190,
193-196
- inequality of 48
- joint 75
- landed 31, 47, 73
- landed, distribution of..... 50
- landed, Germanic stipula-
tions 50
- landed, source of all other
..... 52
- not founded on contract.. 53
- origin of..... 51ff., 76, 80
- repudiation of 59
- satisfaction of needs .. 55, 56
- security of 34
- shared 73, 74
- title of acquisition 61
- utility principle 67
- property* – *see* property in the broad
sense
- protection of acquired rights
..... 3, 8, 11, 27ff.
- Protestantism xi, 123, 127, 132,
138, 142-144, 146, 149, 157,
158
- Church... 132, 138, 142, 144,
158
- Proudhon, Pierre Joseph 60-62
- providential goal..... 1
- Prussia..... xi, 32, 69, 108, 133,
142, 145, 146, 151, 181, 204
- Prussian civil code..... 69, 133,
146, 151, 181
- public necessity 33
- public utility 34
- public welfare 32, 85
- Puchta, G. F..... 83, 88, 89, 92, 142,
..... 151
- purchase 69
- Puritan church..... 40
- Quakers 134
- rank xviii, 19, 22, 24, 25, 113,
115, 120, 121, 161, 194
- Reformation 37
- relations
 life xvii, 1, 2, 19
- representative body..... 23, 24
- rights (see also “entitlement”)
 acquired 3, 27-29, 30, 31, 33
- alienability of..... 5
- basic, of the German na-
 tional assembly..... 32
- feudal 29, 30, 32
- inequality of..... 22, 24
- innate right 3
- natural..... xiv, xv
- personal... xxi, 65-67, 69, 95
- political..... 23, 24, 30
- primeval right..... 3
- property, of the church 32
- real xx, xxi, 5, 65, 66,
 69, 70, 72-74, 87, 88, 90,
 184, 188, 190, 193
- right of the person..... 3-5, 11, 37
- subordinate to law..... xv

- Roman civic virtue 40
- Roman dotal system 141
- Roman law xiii, xxvi, 8, 56, 65,
67–70, 72, 84–87, 89, 96,
105, 108, 120, 148, 150, 162,
180–182, 187, 192–197
and entitlement 69
entitlement, one-sided view
of 188, 189, 191, 192
greatness and shortcoming
of 187
guarantees security of rights
..... 68
legal theory 86
nature of the case, eternal le-
gal truth of 194–197
steadfastness, eternal legal
truth of 193, 194
- Rome, Romans
xxvi, 28, 52, 56, 70, 96,
99, 108, 137, 138, 164, 183,
187, 188, 193, 195, 196, 198
- Rousseau, J. J. 10, 20
- sacrament 122–128
- Samuel 39
- Savigny, F. C.
xii–xiv, 87–89, 92, 93,
101, 185
- Schelling, F. W. J. 151
- seizure 57, 78
- Selden, John xiii
- sentimentality 32
- serfdom 10
- servant relation 112
- services in kind 73
- servitudes xxi, 55, 71, 72, 74, 190
in Roman law 72
personal 72
praedial 71
real 72
- sin 13, 15, 120, 155, 157
- slander 7
- slavery 8–10
- Socialism, socialist xx, 59–62
- St. Bartholomew's Day of property 31
- Stahl, F. J. xi, xii, xv, 43
- state ii, xi–xiii, xv–xvii, xix–xxi,
xxv, 4, 6, 11, 21, 23, 25, 28–
31, 33–35, 39, 47, 52, 53, 60,
80, 81, 91, 101, 114, 115,
122–134, 144–148, 152, 153,
156, 158, 159, 169–175, 187,
192
based solely on human
rights 39
Christian 124, 148, 156
church and xi
- Stein, Lorenz von 62
- Stryck, Samuel 143
- succession
accession to totality of rights
..... 177
consequence of the act of
the parents 178
consequence of the family
bond 177
intestate 181
natural-law theory of
..... 185, 186
not acquisition of property
..... 177
testamentary 179, 180
- τέλος (telos) xvii, 1, 2, 88, 104, 106,
119, 161, 177, 197
- tenancy 69
- terrorism 32
- Thibaut, A. F. J. 89, 90
- Thomasius, C. 10, 132, 143, 164
- Toews, John E. xiii
- tolerance 18, 38
- upbringing xxiii–xxv, 1, 96,
111, 112, 114, 141, 158, 159,
161, 162, 164, 165, 169, 170,
173, 174

usucapion	53, 78, 80, 81, 91, 98	utility.....	xv, 31-34, 44, 56, 58, 67
usufruct.....	xx, 72, 76, 141, 163, 190, 191	Wolff, Christian.....	10
utilitarianism.....	xiv	worldview	ix, xiv
		Young Germany	152