
PREFACE

In the winter of last year, the author made an application to West Sussex County Council to register several parcels of manorial waste in his name. These included village greens and commons across the Manor's jurisdiction. To the best of his knowledge — following the ancient common law — he followed a procedure called right of occupancy: claiming the title, land and rights to the Manor of Cuckfield. At the time, he submitted this to be a lawful process and continues so to do. The vision was to revive the ancient jurisdiction for the needs of the modern age: akin to his work with the City Livery Companies. Though the obscurity of the institution, the lethargy of the population to maintain the uncomfortable conveniences of the *status quo* and general confusion over the role of the Manor made this a nigh impossible task. Though antiquarian in nature, civic in execution and philanthropic in its consequences, the turning point was a letter from The Viscount Brookeborough who intimated that — through the mere act of inheritance — the Manor remained in his family after the complicated doubts to succession surrounding the death of Sir Bertram Sergison Brooke in 1967. Therefore, without access to the succession conveyance — if at all — the author acknowledges a potentially superior title. Though, of course, in the likelihood that no conveyance was brought about to the Viscount after 39 years since his father's death, the author continues to submit his argument on right of occupancy holds and so continues this project with fresh air anew.

This being so, the author thought it prudent — in light of his research — to aid the people of Cuckfield by maintaining and developing the ancient (though still relevant) laws exclusive to the Manor's jurisdiction. This, then, is a testament to that research and one that will be reviewed regularly to provide certainly to those interested in municipal law and, perhaps additionally, those with wider interests in that complex beast called English manorial and her mother English land law. In intention, this document exists to outline the successive legal authority to the Manor: as told by the history and the evidence of those great statesmen and great barons who have brought it to where it is today.

CHRISTIAN PITT

Lewes

Saturday, 28 March 2026



CUSTOMS OF THE MANOR OF CUCKFIELD

Traditions die when weak men fail to defend them. Like the Crown to England's laws, the Baron is the champion of the customs of the Manor of Cuckfield. By tracing the historical precedents for Cuckfield's manorial customs and citing the evidence for their existence, this document intends to uphold for successors to the title (and to the people of the Manor) a record of the municipal laws of Cuckfield; charging those responsible for their administration and reception their due performance: a performance that is honourable, necessary and for the common good of all citizens of the Manor of Cuckfield and beyond. May God Almighty be pleased with the result.

VISION

The Manor of Cuckfield exists to preserve the good government of the Manor; uphold security through a mixed constitution for the benefit of the Manor and its citizens and explore the history of the baronial system (especially in Cuckfield) in order to apply its laws, customs and equity to the needs of each passing age.

HISTORY OF THE MANOR OF CUCKFIELD

Cuckfield, like most English municipal governments, has a mixed constitution. On the one hand, as a Manor, it has the customary Baron of Cuckfield. On the other, as a parish, it has several statutory elected Parish Councils led by the village headmen, or Chairmen, of town and parishes' councils. The relationship between the two is the municipal equivalent of that between the Crown and Parliament.

Rome

The government of Cuckfield began with the Roman villa system of the late Roman Empire. It was widely practised across Mediæval Christendom.

Anglo Saxons

Under the Anglo Saxons, the county of Sussex was divided into Hundreds, and the Hundreds into Manors. The Laws of Edward the Confessor confirmed the existence of barons with the right of those 'wise and learned in the laws' to lay down the customs (or municipal laws) of each county. Further, the laws went on to state that the beginning of all government in England is from the Holy Church; confirmed the rights of barons to have their own courts over their citizens to administer justice and the right of barons to have soldiers and servants, and the servants squires to themselves.

Norman

When William the Conqueror invaded in 1066, Sussex was divided into 6 vertical strips called Rapes. In addition, all Manors were converted into Baronies under French legal custom and placed under the direct ownership of the King. This included the right to sell baronies. Cuckfield fell into the Rape of Lewes and became one of the leading Manors in the Rape. There is no mention of the Manor in the Domesday Book.

At first, the term *baron* was not a title or rank: the *barons of the King* were simply the *men of the King*. Under the Anglo-Saxons, the King's companions had held the title of Earl. All who held their barony in chief of the King (that is, with the King as his immediate overlord) became alike *barones regis* (barons of the King); bound to perform a stipulated annual military service and obliged to attend his council. This included the Manor of Cuckfield.

The Manor was first given to the Earl William de Warenne in 1090; who built a hunting lodge and a chapel in Cuckfield. This was then given as an endowment to the Cluniac Priory of Lewes. The Earl's son, William, confirmed this endowment in a charter of 1091. The third Earl went on the Crusades, and was never seen again after leaving Laodices.

Under King Henry II, the *Dialogus de Scaccario* distinguished between greater barons (who held direct service to the King) and lesser barons (who held and governed their Manors by Royal

prescription or grant). The Barony of Cuckfield fell into the latter. This then led to the King's convention of sending to the Baron of Cuckfield, along with all other baronies, a personal summons called a *writ of summons* demanding the Baron's attendance at the King's Council (later becoming Parliament and then specifically the House of Lords).

The sixth Earl was one of King John's advisers in granting Magna Carta. In Magna Carta, the existence, powers, rights and responsibilities of government by manorial lordships were confirmed and distinguished from those of the greater barons once again: the former continuing to hold power by right of administration, the latter by writ (and later, from 1387 onwards, by *letters patent*) to sit in the House of Lords. In addition, Magna Carta declared that barons shall only be fined by their equals in proportion to the gravity of their offence; the right of barons to escheat land from any man within his manor and that the appointment of barons should be only to men that know the law of the Realm and are minded to keep it well. For the lesser barons within Sussex, all would now receive a single summons through the county sheriff to elect a few representatives from amongst their number to attend Parliament to represent their interests. These representatives then split to develop into the knights of the shire; who they themselves became the precursor to the House of Commons.

The Manor of Trubweek held its court with the Manor of Haywards. The earliest recorded tenant is John de Trobewyk; who held a messuage and land in 'Trobewyk and Hayworthe' in 1276. Richard de Trubwyk, grandson of Maud de Trubwyke, is mentioned in 1328. Trubweek first appears as a manor in 1488: in the possession of Lord William Covert (who held courts there until 1494). He was then succeeded by his son, John, from whom the property passed in 1503 to his cousin, Richard Covert (who held court there in 1508). In 1531, the manor was held by Lord Richard Homewood, but by 1554 was held in thirds by Lords Richard Covert, John Roberts and Michael Homewood. Lord Roberts eventually acquired the Covert portion and was holding two-thirds by 1567 (the other third held now by Lord Henry Homewood who remained in possession of it in 1576). The two-thirds of Trubweek passed about 1572 to John and Mary Hardham; who were still holding that portion in 1594. It remained in that family — Lord Nicholas Hardham holding his first court in 1638 — and continuing until 1662; after which, his widow, Elizabeth, with others (including her brother John Burt) conveyed the property to Lord John Warden (whose father had previously acquired the other third). Lord Henry Homewood's third part was divided about 1579 between Thomas Jenner and John Homewood (and in 1592, Lord Lawrence Homewood conveyed his sixth to Thomas Jenner who then held the third party of the manor until 1612; when he sold it to Lord

John Warden). Lord Sergison (Warden) died in 1649 and his widow then held it until her death; when their son John succeeded to it and in 1662 purchased the rest of the manor. Trubweek thereafter descended with the other property of that family in Cuckfield: going to the Wardens, afterwards Sergisons, to return to the Manor of Cuckfield.

Mediaeval

In 1245, Bishop Richard de la Wych, Bishop of Chichester (later Saint Richard, patron of Sussex) made the parish church independent from the priory by creating a vicarage and appointing the first vicar, Fr. Walter de Warnecamp.

In 1255, King Henry III issued Earl John Warenne with Cuckfield's first grant for a market. These markets were held on Tuesdays with a fair on 8 and 9 September. It is most likely that the southern boundary of the market was the churchyard, and the northern one along the line of Ockenden Lane. The Earl married King Henry III's sister. During the Barons' War, the Earl had taken the side of the King. King Edward I made him Governor of Scotland, but was defeated by William Wallace at the Battle of Stirling in 1297. His great sorrow, however, was the death of his only son; who was killed in a tournament at Croydon in 1297 (just before the birth of the latter's son, also John, who succeeded to the Earldom, and the Manor of Cuckfield, at 17 years of age. He then married Princess Joanna de Bar, daughter of King Edward I. The Earl had little training or education (save in war from his late grandfather) and proved to be a faithless husband. When he divorced, his estates were taken by the King.

Earl John Warrenne left no legitimate heirs; so the Manor (with the Barony) went to his sister's son, Richard 3rd Earl of Arundel. His son, Richard 4th Earl of Arundel, after governing the Realm during the minority of King Richard II, was beheaded by the King in 1394. His son-in-law, the Duke of Norfolk, succeeded to the Manor, but was soon himself banished. The Duke's son, Thomas, returned from France to England with King Henry IV and had King Richard II handed into custody. The Duke married Princess Beatrix, daughter of the King of Portugal, and the Manor was settled on her. The Duke died childless, and by a partition of 1415, the Manor was assigned to Edmund Lenthall.

After Lord Lenthall's death, the Manor was divided amongst the Duke's four sisters by coparcenary. This also included a moiety for the Manor of Cuckfield Clauditor (with a Park Clauditor being a

Manorial official who collected the rents due for the inclosing of Cuckfield Park). Under the guise of the rents of Cuckfield, Cuckfield Clauditor was held in dower by Lord Lenthall's widow, Lady Margaret Tresham. One eighth of the Manor of Cuckfield appeared in the hands of the Earl of Derby who died in 1521 and another eighth to Joan Everard in 1539. Cuckfield Clauditor appeared in the possession of the Bellinghams in 1602 and 1605. In 1648, Cicely — cousin and heir of Lord Edward Bellingham — with her second husband Henry Rolt (and her son Walter West) conveyed her moiety of Cuckfield Clauditor to Lord Hendley.

The Manor of Haldleigh (now Helleighs) was a separate moiety of the Manor of Cuckfield. It appeared as such amongst the possession of Lady Beatrice, Countess of Arundel in 1439. It descended with Cuckfield Clauditor at least until 1648. It then became a property of the Sergisons: this moiety lying between Ockenden and Mill Hall.

The Manor of Haywards was said in 1784 to be held of the Crown as of the Manor of East Greenwich. It gave its name to a family living there in the 14th century: Lord Philip de Heyworth in 1308, and Lord John de Hayworthe in 1358. It first appears as a manor in 1542; when it was conveyed by Nicholas Mascall and his wife, Agatha, to John Robardes. By 1594, the Manor of Heyworth had come into the possession of John and Mary Hardham (holders of two-thirds of the Manor of Trubweek) who in that year settled it upon Thomas Jenner and James Hardham; then the heirs of the former. In 1663, Lady Elizabeth, widow of Lord Nicholas Hardham, conveyed two parts of the Manor to Lord John Warden. Then the Manors of Hayward and Trubweek, which were adjacent, descended together and formed a part of the Manor of Cuckfield under the Sergison family. For Trubweek, this includes rights of common on Haywards Heath.

John de Tye was settled in Cuckfield and paid a subsidy to the vill of Cuckfield in 1327. A manor of Tye was in existence at least from 1397, but nothing further is known of it until 1492. At this time, it was in the possession of Lord John Michell (who dies in 1525). His son, John, left it to his son, Edmund; who succeeded in 1558 by his son, Thomas. In 1585, Lord Thomas Michell sold the manor to William Butler; whose son, Roger, held it in 1619, but mortgaged it in 1627 to Henry Bellingham, and finally conveyed it to him in 1632. Lord Bellingham sold the Manor of Tyes in 1638 to Richard Shelley, and it descended in that family to another Richard (who held it in 1695). His son, Henry, succeeded to it in 1716 and died in 1735; leaving a son, Henry, who was the owner in 1786 and died in 1805. His son, Henry Shelley, died unmarried in 1811: leaving four sisters. As

the subsequent descent of the Manor of Tyes is not recorded, it must be assumed in law to have returned to the Manor of Cuckfield

Tudor

By the late sixteenth century, the Manor was found in three portions: a moiety to Lord Bergavenny, a quarter to the Earl of Derby and a quarter to Earl Philip of Arundel.

In 1575, the Earl of Derby sold his quarter to Henry Bowyer, a local iron master. Iron was a major industry in the area from as early as the 13th century right up till the 18th century. In 1574, Lord Bowyer and his wife Lady Elizabeth Bowyer dismantled the Mediæval manor hall near the church to build a new manor house, now Cuckfield Park. He died in 1589. His son, Sir Henry Bowyer, succeeded to the Manor until his death in 1606. The Manor then passed to his nephew, Sir Thomas Hendley (the son of his sister Anne).

The quarter of the Manor owned by the Earl of Arundel was sold by him in 1585 to Sir Walter Covert of Slaugham. From Lord Covert, the Manor passed in 1632 to his niece, Anne, and her husband, Sir Walter Covert of Maidstone. In turn, their two sons, Thomas (who died in 1643) and Sir John held the Manor. Lord John Covert died in 1680 and passed the Manor to his daughter, Anne, the wife of Sir James Marton; then to their son James whose wife Mercy survived him and then married Charles Goodwin. Lady Goodwin sold her quarter in 1735 to Lord Thomas Sergison (who had already inherited the first quarter).

The Manor of Marshalls was held by Lord Ninian Ward about 1538. From Lord Ward's son, John, the manor passed about 1592 to his son Henry Ward of Pains, and thereafter descended with the Manor of Pains until it came into the hands of James, son of Robert Norden. His grandson, Lord James Norden, sold the manor some time after 1754 to John Tomlinson; from whom, it was bought by Henry Edwards. In 1770, it was conveyed by Lord Edwards and various members of a family called Baker to Charles Langford; who sold it before 1784 to Francis Warden; from whom it descended to, and reattached to the Manor of Cuckfield.

In 1596, the case of *Heddy v. Wheelhouse* (1596) Cro. Eliz. 591 ruled that rights emanating from royal grants and prescriptions (especially for markets and fares) remain in being despite the

dormancy of their usage. This decision affects all markets within a six and two thirds mile radius from the village of Cuckfield.

Stuart

Lord Hendley was succeeded by his son Walter in 1656; who was made a baronet in 1661 and died in 1675. He left only a daughter, Mary, who first married William More; then William Clarke. The latter mortgaged Cuckfield Park and the Manor to Charles Sergison in 1687; then again in 1683. Charles Sergison eventually purchased both. Lord Sergison was a Commissioner of the Navy and Clerk of Accounts until his death in 1732. The Manor succeeded to Thomas Warden

In 1670, King Charles II granted a licence to Lord Walter Hendley and five others to hold a weekly market at Cuckfield for the benefit of the inhabitants. In 1792, there was a Friday market and fairs on Whit Thursday, 25 May, 16 September and 29 November (but all these had lapsed by 1888). A weekly stock market was held on Tuesdays, but this was transferred to Haywards Heath in 1868 before it became a Sainsbury's supermarket. Under *Heddy v. Wheelhouse*, the Baron of Cuckfield is entitled to a *pitch penny* and *show penny* from all businesses for each day of trading within its economic radius.

Georgian

In 1735 Thomas Warden, son of Lord Sergison's niece Prudence Sergison and her husband Thomas Warden, succeeded to the Manor. Thomas adopted the Sergison name on inheriting the property, and shortly afterwards acquired the second quarter of the Manor. The Manor then succeeded to Thomas' brother, Michael in 1766 until his death in 1784. Lord Michael Sergison held courts there in 1770 and 1781. Francis Jefferson (who also took on the Sergison name) succeeded to the Manor in 1784 with his wife Anne. Lady Sergison continued to hold the moiety as widow until her death in 1806; after which her 3 sons held the Manor in turn: Lord Warden Sergison (died 1811), Lord Francis (died 1812), and their sister Lady Anne (wife of Fr. W. S. Pritchard, who took the name Sergison at their marriage).

Victorian

Lady Anne Sergison's son, Warden George Sergison, inherited the Manor in 1848. In 1865, he acquired the remaining half of Cuckfield Manor from William, 4th Earl of Abergavenny. The whole manor, thus reunited, descended from Lord Warden George Sergison to his son Major Warden

Sergison in 1867; then, his son (Captain Charles Warden Sergison) succeeded in 1888. At his death in 1911, the Manor devolved upon his eldest daughter, Prudence; who married then Colonel Sir Bertram Sergison-Brooke dying without male heirs in 1967. They had one daughter, Patience, and when Prudence died in 1918, Bertram married for the second time in 1923 to Hilda Fenwick (with whom, they had a son called Timothy).

Windsorian

The original heir was Charles Warden Sergison's second daughter's (Cynthia) son, John Warden Brooke, to inherit the title subject to the life interest of Sir Bertram. However, in 1925, the Administration of Estates Act changed the means of succession to territorial baronies from operation of law to conveyance. After Sir Bertram's death, no known conveyance was made to any of Sir Bertram's descendants nor to John Warden Brooke or his natural heirs. That said, the third Viscount Brookeborough claims he inherited the title as part of his late father's estate outside of County Fermanagh. As such, the Viscount may be the present Baron of Cuckfield. Although, in the high chance no such succession was brought about by a valid conveyance and from the absence of evidence of it, the author of this work made a notorious claim through The Gazette in August 2024 to the abandoned and yet to be escheated title, land and rights of the ancient Manor.

JURISPRUDENCE

Baronial system

The baronial system (also known as manorialism, seigneurialism, the manor system or manorial system) remains one of the English municipal systems of government and was an economic land management system.

The system is derived from a prescription or grant from the Crown to a Baron to govern his Manor and its citizens from a Baron's Court. With the advent of local councils in 1894, the customary baronial system continues to exist side by side with this new statutory council system.

The baronial system comes with retained political and economic powers, rights and responsibilities which date back to at least 383AD. These are the powers of the Crown: with Barons empowered to govern as municipal monarchs of their Manors.

Baron

A Baron, or Lord of the Manor, is an English title of nobility.

Peerages were not introduced until 1387; so during the Anglo-Saxon and Norman periods, Lords of the Manor were referred to as Barons and were, for all intents and purposes, the only nobility of England. This is because nobility in English law at the time was attached to the rights and responsibilities of government over an area of territory; rather than membership of the House of Lords.

Indeed, when barons were first called to Parliament after the publication of Magna Carta, they were called by right of *per baroniam* (that is, government of a Manor) rather than by any particular writ. Writs were merely the invitation to attend Parliament; it was the ownership of a Manor which distinguished nobility.

Later, the early Plantagenet Kings stopped sending personal writs to lesser lords, and instead only granted them to the greater lords (that is, those lords who had enough economic standing to put pressure on the King to assemble Parliaments, and their presence to speak at it). The Crown never abolished baronies *per baroniam* but simply introduced a dichotomy within the English nobility: the greater lords (following the new peerage system; whose nobility came about as a result of their right to sit in the House of Lords) and the lesser lords (following the French system of nobility; whose nobility came about by their land ownership and rights and obligations of government over their Manors). Even when King Richard II eventually transferred from writs to granting letters patent, the position on nobility by manorial ownership remained unaltered for the lesser lords.

As such, baronies — though buried under the passage of ever changing laws for Parliament and local government — remain a lawful continuation of the English constitution, and the barons are *de iure* part of the nobility. In fact, the oldest and most continuous form of nobility in England.

As the title has existed since time immemorial, and as no English custom may be abolished by the dormancy of its execution, baronies remain titles of nobility under English customary law. Further, a baron retains whatever ancient rights and responsibilities of government he has over time where the law is yet to supersede them.

And so, due use of the style 'Lord X' and addressing a Lord of the Manor as 'My Lord' or the 'Baron of X' is not only acceptable but socially, politically and legally correct. This is very much as one would address a priest as 'Fr. X' or the holder of a doctorate 'Dr. X'.

This is also the justification for calling a Bishop 'Lord' based on the associated incorporeal territorial rights attached to his bishopric. The nobility of a bishop is based on baronial nobility, rather than peerage.

For these reasons, baronial titles continue to remain a part of the English nobility and due honour must be given in accordance with the law.

Construction of customary law

A custom is defined as an ancient and continuous act that is reasonable and certain. That is, an action which existed before time immemorial (1089); continues to exist today (active or dormant); under the jurisdiction of the common law courts; referring to a definable subject matter. Customs must apply to an undefined and fluctuating class in society.

In English law, a law is assumed to continue to exist unless it has been replaced (expressly or by implication).

As peerages were created in 1387, any reference to 'baron' before this time must refer to a Lord of the Manor. In practice, the two terms are interchangeable. After this time, two forms of barony emerge in England: territorial baronies (attached to a province and jurisdiction) and honorary baronies (or peerage by writ of summons or letters patent to sit in the House of Lords).

Any reference to Manor must be to the incorporeal territorial unit of government; to which the right and responsibility of government rests in the Baron over his particular jurisdiction (in this case, the Manor of Cuckfield). It may help to understand a Manor as akin to a trust. That is, the legal entity that is a Manor came about by the benefaction of King William I. This is under the trusteeship of a Baron and is governed by the Baron for the beneficiaries to the Manor: subjects, resident aliens and guests within the Manor. Though there have been statutory and common law changes to local government since 1066, the baronial system has never been replaced but merely built upon by these local changes. Much like the cloth and cutlery resting on top of the table that is the baronial system.

As such, Manors remain a part of the constitutional fabric of English government and any changes to local government must be construed accordingly.

Linked to the last point, any reference to knight's fee must be to incorporeal military sub units of government within the Manor (on which rests the basis for common law knighthoods: now a baronial privilege rather than an obligation).

Any reference to the Baron's Court must be to the seat of the Baron.

Any reference to 'headman or prefect' must refer to the Chairman of Cuckfield Parish Council, Ansty and Staplefield Parish Council, Slaugham Parish Council and the Chairman ("the Town Mayor") of Haywards Heath Town Council.

CHRONOLOGY OF GENERAL CUSTOMS, or COMMON LAW

pre 383AD	A Roman official was appointed to collect taxes and dispense justice from surrounding smaller properties to add to his own. This official became known as a 'Lord' or 'Baron'.
c. 500 AD	Pope Leo I adapts the Roman principle of succession (that which belonged to he who has died continues with he who succeeds to the title) to government.
383 - 1066	England is divided into counties; the counties into hundreds and the hundreds into manors by the Anglo-Saxons as the means of municipal government. This is the evolution of the Roman villa system in England. The manor is constituted by a twofold purpose: an economic (land management by tenure ("Fiscal Feudalism")) and a political ("the Baronial System"). King Æthelstan decreed all freemen must have a lord (Baron), lords an overlord (Earls) and overlords a lord paramount (The King). The

relationship is mutual: the lord receives a service from the freeman; in return, the freeman is provided law and protection.

1066

Leges Edwardi Confessoris

Wise and learned in the laws, King William I summoned 12 barons from each county so that the customs of the Realm may be laid down.

The beginning of all government in England is from the Holy Church; through which the King and the Kingdom are to have a solid existence.

Let the barons who have their own court over their men administer justice; that they do not incur guilt towards God and do not offend the King.

If the plea of other barons over men arises in their courts, let them be present at the King's justice; since it should not be concluded without them.

The barons may have their soldiers, servants (namely butlers, chamberlains, cooks, bakers and others under their demesne), and the servants themselves may have their squires or other servants under the demesne.

That these laws, granted by King Edward, should not change with the laws of others. This was by the advice and prayer of his barons, and thus the laws were confirmed by authority in Him who lives and reigns for endless ages of ages. Amen

1066

Norman custom

William the Conqueror vests all land to the Crown and imports and applies the French baronial system used by the *Ancien Régime*.

Baronial landholders in England who possess a fief (called a Manor)

are entitled to style themselves *baron* and *de iure* become members of the nobility. This includes any division of land; with subsequent possessors of the divided land entitled to a separate title of nobility. French baronies may be sold freely till 1789 (when the Constituent Assembly abolished feudal law).

There are several categorisations of nobility under French law. The chief is the *noblesse de race*; which includes the aristocratic families recognised for having always lived nobly and never ennobled. The oldest of all is the *noblesse d'épée* which predate the eleventh century. House Pitt retains this nobility through a parent house: House Villiers.

And so, the English baronial system (baronies *per baroniam*) follows the French system.

Further to King Æthelstan's system, a baron may subinfeud land to newly created barons to manage the land, residents and provide fighting men at time of war.

The age of succession is set to 21 years of age for male heirs; 14 for female heiresses.

King William further set the precedent in law that baronies may be claimed by right of occupation. In The Crown's capacity as lord paramount, where property belongs to no one, it becomes by natural reasoning the property of the occupier. And so, this would apply as much to a barony as it would to The Crown (so long as the title does not escheat before the claim is made or there is no evidence of succession by conveyance of descent by right of inheritance or sale by right of alienation).

And if, upon the death of a baron, a daughter is left as heir, I will give her with her land by the advice of my barons. And if, on the death of her husband, the wife is left and without children, she shall have her dowry and right of marriage, and I will not give her to a husband unless according to her will.

If a wife be left with children, she shall indeed have her dowry and right of marriage so long as she shall keep her body lawfully, and I will not give her unless according to her will. And the guardian of the land and children shall be either the wife or another of the relatives who more justly ought to be. And I command my barons restrain themselves similarly in dealing with the sons and daughters or wives of their men.

If any of my barons shall grow feeble, as he shall give or arrange to give his money, I grant that it be so given. But if, prevented by arms or sickness, he shall not have given or arranged to give his money, his wife, children, relatives, or lawful men shall distribute it for the good of his soul as shall seem best to them.

If any of my barons is convicted of treachery or heinous crime, he shall make amends as is just.

To those knights who render military service for their lands, I grant of my own gift that the lands of their demesne ploughs be free from all payments and all labour, so that, having been released from so great a burden, they may equip themselves with horses and arms and be fully prepared for my service and the defence of my kingdom.

I impose a strict peace upon my whole Kingdom and command that it be maintained henceforth.

I restore to you the law of King Edward [the Confessor] with those amendments introduced into it by my father with the advice of his barons.

1189

Time immemorial

3 September 1189 (coronation of King Richard the Lionheart) becomes *time immemorial*. No new customs may be created after this date.

To prove ownership of a manor, a consecutive set of deeds is required from this date. Alternatively, a baron needs to prove he has enjoyed the manor for living memory and that the manor has existed over the centuries since 1189. The Manor of Cuckfield has existed since at least 1091.

1189

King Richard I sells baronial titles to fund the Third Crusade.

1225

Magna Carta

No man shall be forced to perform more service for a knight's fee, or other free holding of land, than is due from it.

Earls and barons shall be fined only by their equals, and in proportion to the gravity of their offence.

A baron is preserved the right of holding his own court.

The writ called *precipe* shall not in future be issued to anyone in respect of any holding of land, if a free man could thereby be deprived of the right of trial in his own lord's court.

No free man shall be seized or imprisoned, or stripped of his rights and possessions, or outlawed or exiled, or depraved of his standing in any way, nor will we proceed with force against him, or send others to

do so, except by the lawful judgment of his equals or by the law of the land.

To no one will we sell, to no one deny or delay right or justice.

If a man hold lands of any escheat within a manor, the baron will hold the escheat.

We will appoint as other officials [barons], only men that know the law of the realm and are minded to keep it well.

All barons who have founded abbeys, and have charters of English Kings or ancient tenure as evidence of this, may have guardianship of them when there is no abbot, as is their due.

All these customs and liberties that we have granted shall be observed in Our Kingdom in so far as concerns our own relations with our own subjects. Let all men of our Kingdom, whether clergy or laymen, observe them similarly in their relations with their own men.

The barons shall elect twenty-five of their number to keep, and cause to be observed with all their might, the peace and liberties granted and confirmed to them by this charter.

1290

Quia Emptores 1290 18 Edward I c. 1

Manor may not be subinfeudated any more (only substituted).

1296

Coutumes de Beauvaisis, Beaumanoir

Every baron is sovereign in his barony subject to the grace of the King.

1387

The burden of *servitium debitum* was the baron's right to attend the King's Council. This was by right of *per baroniam* (with barons

receiving individual writs of summons to attend Parliament) to advise or fund the Crown's needs. Eventually, the King refused to summon lesser nobles by personal writ; instead sending a general writ of summons to the sheriff of each shire to summon representatives of these lesser barons. The greater barons (those with sufficient power to insist upon it) continued to receive personal summonses. As such, the right to attend Parliament shifted from barons *per baroniam* to barons by writ of summons. These were decided by the will of the Crown on points of honour). This eventually evolved into summons by letters patent.

1539

House of Lords Precedence Act 1539 31 Henry VIII c. 10

Section VIII of the Act continues to recognise the distinction between parliamentary barons and territorial barons.

1582

***Hutton v. Gifford* (1582) Sav 21, 123 ER 989**

The lord of a sub-manor purchased the superior manor. He could not be his own lord and in consequence the inferior manor was extinguished by being merged into the chief manor out of which it had originally be granted. [This is the precedent for the unification of the sub manors to Cuckfield up to 1848.]

1582

***Morris v. Smith and Paget* (1582) Cro Eliz 38.**

A manor cannot be created at this day, neither by a common person nor by the Queen.

1584

***White v. Shirland* (1584) 1 Co. Litt. 122a**

So long as land continues to be common, no prescription can deprive the owner of the soil of the right to take his reasonable profit; except where the grazier can establish a right of sole vesture. If the rights are stinted, the baron may be limited to manorial stint. In that case, where there is insufficient pasture then any grazing by the baron would abate

in proportion to commoners. If there is a surplus, that belongs to the baron.

1596 ***Heddy v. Wheelhouse (1596) Cro. Eliz. 591***

Such liberties, which a common person hath by grant, or prescription, which the King (if such prescription had not been) could not have by his prerogative, as warren, park, fayr, market with toll, &c., if these come to the Crown, &c., they remain in esse, and are not extinct; for, if the King should not have them by this means, they would be lost.

1608 ***Earl of Cumberland's Case (1608)***

If there are two parceners of two manors and one of them enfeoffs the other of one manor and the other enfeoffs the first one of the other manor, that is in the first place a partition and afterwards a good feoffment.

1612 ***Lister's Case (1612)***

Thomas Lister held lands of the king as manor of Bradford 'by the blowing of a horn at the market cross of Bradford and by service of serving the lord of the said manor with his lance and horn for forty days when hunting wild boar in the forest of B., having an allowance during the time of his services of one penny a day for this costs, and a halfpenny a day for the dogs, and by the service of providing safe-conduct for the provost of Bradford with the rents of the manor from the town of Bradford as far as Pontefract Castle, and by suit of court and a rent of 8d. for three boons.' Resolved to be only socage tenure; without concern for any military action against the enemies of the realm.

1613 ***Apotts Case (1572)***

Tenant for life, remainder to Roger Apott in fee, of land held of the King in chivalry; the remainderman is seised in fee of other land in possession, held of a common person, and dies, his heir being under

the age; then the tenant for life dies: the King shall not have the wardship of the body, but the lord in whom it was first vested.

1613

***Whistler's Case* (1613) 10 Co. Rep. 63**

Where a patent grants a manor in one location [Northumberland], and where the words 'or elsewhere' are used, these are sufficient to pass services in another location [Cumberland].

1615

***Sir William Fleetwood's Case* (1615)**

Where a man is in debt to the King and sells his lands to another [in this case, the Manor of Cranford], these lands are not liable to the King's debt.

1616

***Anon.* [1616] Probably King's Bench**

Where demesnes and the greater part of the tenants lie in one manor [Norfolk] and some services in another [Suffolk], the land, tenements and hereditament parcels of the one may exist and be sold by virtue of indenture enrolled; the services of the other according to *Whistler's Case*.

1630

Complete Copyholder, by Sir Edwards Coke

A custom cannot be alleged generally within the Kingdom of England, for that is in common law.

1660

Tenures Abolition Act 1660 12 Charles II c. 24

All tenures of any manors of any inheritance at the common law held either of any other person are hereby enacted to be turned into free and common socage; any law, statute, custom or usage to the contrary hereof in any wise notwithstanding (excepting frankalmoign and copyhold).

And that the same shall for ever hereafter stand and be discharged of all tenure by homage, escuage, voyages Royal and charges for the same, and all other charges incident to tenure by knights-service.

Section X [though now repealed by the Statute Law (Repeals) Act 1969], continued to identify and confirm the existence of ‘any Title of Honour Feodall’; though the 1969 Act repealed in statute the ability of possessing a right to sit in the House of Lords by virtue of a territorial barony. Following *Metropolitan Asylum District*, however, the 1969 Act continues to uphold territorial baronies as titles of nobility.

1664

Abbot v. Weekly (1664) 1 Lev. 176

The people of the locality have rights of access for lawful sports and pastimes on town and village greens within the Manor. As these rights are enjoyed by a fluctuating group of people, they may only be enjoyed under custom. In practice, if the land has been used as a green for many years, the courts will assume such use predated *time immemorial* (unless there is evidence that it could not have been so used continuously after that date). Rights on the green include grazing and, under the Commons Registration Act 1965, rights of recreation for local residents including cricket, fairs and, traditionally, butts for archery practice.

1670

Fitzwalter’s Case (1670)

Ruled that barony by tenure is now held by socage; with any claims to peerage on such basis (that is, a right to sit in the House of Lords) refused to be revived, nor any right of succession based on them. This is because barony by tenure had been discontinued for ‘a long time’ [however, see the definition of English custom; especially the nature of continuity)].

The case further recognised and confirmed the elevation of Benjamin Mildmay to Baron Mildmay of Fitzwalter through barony by tenure (*barony per baroniam*).

Half-blood is no impediment to the descent of a dignity to the heir general.

1672

Titles of Honour, John Seldon

The titles Earl and Baron are recognised as ancient titles of nobility preceding peerage.

And with those great titles, jurisdiction and power of government have beneficently given in the [Holy Roman] Empire on the Sovereignty and Dominion over the Province that is so given, together with the Royalties of the Territory, as Tolls, Customs, Mines, Fishings, Forrests, and such like

And then it may be well enough applied to such a one as an ordinary Baron is, that hath any Territory or Jurisdiction... for regularly and originally both Jurisdiction and Territory are essential to them... Baldus makes the Territories and Jurisdiction chief parts of the dignity... of this part, a Baron is of two kinds, those who have their Baronies consisting of fiefs or held per baroniam and in feudal right [the other, by peerage]

The word *Baro* (Latin for baron) hath been also so much communicated, that not only all Lords of Mannors have been from ancient time, and are at this day called sometimes Barons (as in the stile of their Court Barons, which is *Curia Baronis*, &c. And I have read *hors de son Barony* in a barr to an Avowry for *hors de son fee*).

A Baron is a noble gentleman.

A gift of a Territory without the title of Barony, makes not a Baron, yet if the Feudatory have licence given him to make sub-infeudation, by reason of those under tenancies he is by implication become a Baron.

The notion of Baron, restrained to a particular dignity, is for the dignity either in the Barons originally and immediately holding of the Crown, or mediately. Such as originally and immediately held of the Crown, are those of the elder state of France. For, when the Crown so wasted itself by permission of sovereignty to Subjects (as is before remembered) all such great Lords, holding of the King, as had gained to themselves Territories and Jurisdictions differing in extent from those of Dukes and Counts, and yet had not the Titles of either of those or of any other of that nature, nor would assume the name of Princes, were styled Barons. And some, it seems, by Creation, some by their own assuming it.

A Baron may bear their Arms in a Banner or *en drappeau guarre*.

Titles in England be divided here into those which are from those with voice in the Lords House of Parliament and such as have no voice there.

Some have had their Original long since the coming of the Normans, others of them are *alio* (though under various names) in the Ages that precede the Normans. And from those ages their Original must be deduced. We here consider them that have the antienter Original. They are those two of Earl and Baron. And of Earldoms and Baronies, we find them before the settling of the Norman Monarchy in England.

The Nobility of that time, were all the Kings feudal Thanes, and the land held so was called Thaneland, as afterwards the Lands held that made a Baron were called Barony, as also they are called to this day.

This title continued under the Saxon times until the coming of the Normans, and it was in some use after that time. And as the use of the word Baron, is to this day such that denotes, the Barons of Parliament, and yet is variously communicated to some Officers of Courts of ordinary Justice, to those of the Cinque Ports and to the Lords of Mannors; so had Thane in those times various acceptations.

About the later time of King John, and the rest which follows until the middle of Richard the Second, an alteration of great moment fell among the Barons and Baronies of the Kingdom. For whereas in the time of the first part, every tenant in chief, as is before (shewed, was indifferently an honorary or Parliamentary Baron by reason of his tenure of lands held, which made his Barony; about the end of King John, some only that were most eminent of those tenants in chief (sometimes sailed *maiores regni barones*) were summoned by several Writs directed to them. And the rest (whether styled at any time Barons in such a kind of sense or no I know not though they might as well have had the name of *minora barones*, as the other of *maiores*) that held in chief, were summoned *alio*, not by several Writs, but by one general Summons given by the Sheriffs in their several Counties.

1676

The Prerogatives of the King, Matthew Hale

The title of baron is (4) by tenure, whereof some were spiritual, as divers abbots and priors that held per baroniam and came to parliament, some temporal and of a feudal barony or dignity. With a feudal title of honour, the title of *possessio fratris* holds, because the honour is *quodammodo* annexed to the feud. Where a title of honour is feudal, as in the case of Arundel castle [or the Manor of Cuckfield], *possessionis absque aliqua alia creatione in comitem fit comes*.

Court baron is a jurisdiction incident of common right to a manor, though it may be severed by the King. The jurisdiction is determined by law.

In case a market be kept in a common street or highway, it must be granted by special words, because though the lord of the soil hath interest in the soil, every man is entitled to the way.

1678

Pawlett v. Attorney-General (1678) Hardres 465 at 469

Escheat occurs when a freehold legal estate is determined so that the land reverts to the holder's superior in tenure, known as the chief lord. That is most often the Crown but in rare circumstances it may be the lord of a manor. This applies to freeholds which are parcel (areas of land which make up the manor) of the manor including certain enfranchised copyholds. If the tenant's estate ceases to exist, then the rights of the chief lord come into effect (including a better right to enter on the land than anyone else).

1704

R. v. Duchess of Buccleugh (1704) 6 Mod. 150

Once land has been severed from a manor, it may not be reattached by act of parties; although, it may by act of law. The court held 'a manor is an entire thing and not severable'. Each part of the former demesnes remained subject to liability. This would be so even if the sale had occurred after 1290 so that the land is held of the chief lord by substitution.

[And so, because the manors of Bentley Park, Cuckfield Clauditor, Hadleigh, Haywards, Marshalls, Pains, Trubweek and Tye are only known to have existed after Quia Emptores, it must be assumed they were substituted to their Barons by one of the Warenne Barons of Cuckfield, and now all exist reattached to the Manor of Cuckfield. Though executed by act of parties, due to lack of succession by inheritance to the substituted manors severally, they must now have been reattached by act of law].

1744

In what Cases Equity will interpose in Regard to Copyhold Estates, &c. (1744) 2 Eq. Cas. Abr. 225

The felling of trees and working of minerals both constitute waste that is a material change in land.

1757

Goodtitle, ex dimiss. Chester v. Alker and Elmes (1757) 1 Burrow 133 at 143

The King has nothing but the passage for himself and his people [over highways]: but the freehold and all profits belong to the owner of the soil. So do all the trees trees upon it, and mines under it. The owner may carry water in pipes under it. The owner may get his soil discharged of this servitude or easement of a way over it, by a writ of ad quod damnum... There is no reason why he should not have a right to all remedies for the freehold; subject still indeed to the servitude or easement. An assize would lie, if he should be disseised of it: an action of trespass would lie, for an injury done to it.

Trees existing in the highway before it was adopted or vested in the authority belong to the owner of the soil.

1765

Commentaries on the Laws of England, William Blackstone: Book I

The law therefore ascribes to the King, in his political character, not only large powers and emoluments which form his prerogative and revenue, but likewise certain attributes of a great and transcendent nature; by which the people are led to consider him in the light of a superior being, and to pay him that awful respect, which may enable him with greater ease to carry the business of government. This is what I understand by the royal dignity, the several branches of which the law ascribes to the King as sovereignty, absolute perfection and perpetuity.

[For municipal government, these powers and emoluments are the laws and customs of the Manor. By implication, because the Barony of Cuckfield exists by royal prescription, it must exist as a monopolistic franchise of the royal prerogative over the Manor of Cuckfield. As such, for the jurisdiction of the Manor, the Baron's dignity is sovereign over the affairs of the Manor; the Barony in the execution of its internal Manorial government is perfect (with fault, if any, lying merely with the counsel and agents of the masters and officers under his government); and perpetual in that, like the Crown, the succession remains permanent (regardless of periods of dormancy) as a perpetual institution. Thus, even if the jurisdiction that is the Manor were to be purchased or otherwise conquered, it would only be correct to say that the successor succeeded to, or inherited, the title in an eternal line of succession since the founding of the Manor. The right of government of the Manor therefore follows the common law principles of devolved government: namely that the Baron may do what he wills within the Manor so far as the laws of the Realm allow; the Baron is forbidden from exercising other royal prerogatives held of the Crown not prescribed by it; and that the Crown may modify the Manor's powers where necessary or expedient for good government of the Realm overall (see Introduction to the Study of the Law of the Constitution, A. V. Dicey [1952])]

1766

Commentaries on the Laws of England, William Blackstone:

Book II

Exhausts the means of transferring real property (including territorial baronies) by: inheritance, descent, escheat, occupancy, prescription, forfeiture and alienation.

King William I first granted the Barony of Cuckfield by prescription to Baron William de Warenne. From thence, the title inherited by right of descent; except the first acquisitions of House Bowyer in 1575 and House Sergison in 1687 which was purchased by right of alienation.

House Pitt, in acquiring the title, did so by claiming it by right of occupation. That is, taking possession of those things, which before belongs to nobody. Or, in the laws of Rome, '*quod nullius est id ratione naturali occupanti conceditur*' (that is, what belongs to no one, becomes by natural reason the property of the occupier). Here is distinguished two forms of occupancy: special occupancy (which was used by means of a *pur autre vie* tenancy which was restricted by 29 Charles II c. 3 and 14 George II c. 20 before being repealed by 30 & 31 Victoria c. 59) and common occupancy (which continues for freehold and is further addressed by Blackstone: 'common occupancy is now reduced almost to nothing'; confirming its validity for transfer of territorial baronies despite its novelty even in the mid 18th century).

1773

Inclosure Act 1773 13 George III c. 81

S. 15 And it shall and may be lawful to and for the lord or lords, lady or ladies of any manor, with the consent of three-fourths of the persons having right of common upon the wastes and commons within his, her or their manor, at a meeting to be held after fourteen days notice, such notice to be given in manner herein-before directed by the lord or lords, lady or ladies of the manor, or their agent respectively, at any time or times to demise or lease for any term or number of years not exceeding four years any part of such wastes and commons, not exceeding a twelfth part thereof, for the best and most improved yearly rent that can by publick auction be got for the same; and the clear net rents reserved to the lord or lords, lady or ladies, his, her or their heirs, executors, administrators or assigns, by any lease or leases to be granted as aforesaid, shall be by him, her or them, and the major part of his, her or their tenants, applied in the draining, fencing or otherwise improving of the residue of such wastes and commons.

S. 18 And whereas there are in many places common pastures, with stinted or limited rights of common therein, which are open the whole

year, and it would be attended with great advantages to the commoners to shut up and unstock the same at particular seasons: It shall and may be lawful to and for two-thirds in number and value of such commoners, at a meeting to be holden after fourteen days notice given in manner herein-before directed, with the consent of the lord or lords, lady or ladies of the manor or manors in which such commons are situated, his, her, or their steward or stewards, agent or agents, to direct, order and fix the time when such common pastures shall be broke or depastured, and when the same shall be shut up and unstocked, such orders to continue in force for one whole year, and no longer.

S. 28 Saving always to the King's most excellent Majesty, his heirs and successors, and to all and every lord or lords, lady or ladies of any manor or manors, and to all and every other person and persons, bodies politick or corporate, his, her and their heirs, successors, executors and administrators, (other than and except the respective persons, their heirs, successors, executors and administrators, who may in consequence of this Act being duly carried into execution become subject to the provisions and regulations thereby authorised to be made,) all such estate, interest and rights as they, every or any of them, had or enjoyed in and over the said common arable fields, wastes and commons of pasture before the passing of this Act, or could or might have had and enjoyed in case the same had not been made.

1776

The Wealth of Nations, Adam Smith

The barons *per baroniam* are identified as the third and final class responsible for the factor of production of land within the economy. Their rights over land allow them to charge rent (and other emoluments) from tenants within the manor in exchange for keeping the land as profitable as possible to facilitate wealth creation for themselves and those that use the land. Their leisurely state of affairs

from the wealth created compared to the work of employed labour and owners and merchants of capital allows the barons more time to contemplate on the strong and successful means of government and thus — by the primacy of economic station and by freedom of leisure — the barons are in the best position to govern the Realm and its municipalities.

1819

Poor Relief Act 1819 59 George III c. 12

S. 17 All buildings, land and hereditaments, which shall be purchased, hired or taken on lease by the Churchwardens and Overseers of the Poor of any Parish, by the authority and for the purposes of this Act, shall be conveyed, demised and assured to the Churchwardens and Overseers of the Poor of every such Parish respectively, and their successors, in trust for the Parish.

1828

Night Poaching Act 1828 9 George IV c. 69

Where any person by night unlawfully takes or destroy any game or rabbits in any land, whether open or enclosed, or by night unlawfully enter or be in any land, open or enclosed, with any gun, net, engine or other instrument for the purpose of destroying game, it shall be lawful for the lord baron to seize and apprehend such offender, or in case of pursuit in any other place he may have escaped, and deliver him to the custody of a peace officer to be conveyed before two justices of the peace.

1831

Game Act 1831 1 & 2 William IV c. 32

A baron is granted the following rights with respect to sport:

- i) to pursue and kill game “upon the wastes or commons within such manor”; and
- ii) to appoint a gamekeeper to “preserve or kill the game within the limits of such manor”.

1841

***Veley v. Burder* (1841) 12 Ad. & E. 265 at 302**

A custom existing beyond the time of legal memory, and extending over the whole Realm, is no other than the common law of England.

1841

Copyhold Act 1841 4 & 5 Victoria c. 35

Former copyholder would have a freehold, but the Baron reserves escheat.

1845

Land Clauses Consolidation Act 1845 8 & 9 Victoria c. 18

S. 99 The compensation in respect of the right in the soil of any lands subject to any rights of common shall be paid to the baron, in case he shall be entitled to the same, or to such party, other than the commoners, as shall be entitled to such right in the soil; and the compensation in respect of all other commonable and other rights in or over such lands, including therein any commonable or other rights to which the baron may be entitled, other than his right in the soil of such lands, shall be determined and paid and applied in manner herein-after provided with respect to common lands the right in the soil of which shall belong to the commoners; and upon payment of the compensation so determined either to the persons entitled thereto or into the Senior Courts, all such commonable and other rights shall cease and be extinguished.

S. 100 Upon payment or tender to the baron, or such other party as aforesaid, of the compensation which shall have been agreed upon or determined in respect of the right in the soil of any such lands, or on payment thereof into the Senior Courts, in any of the cases herein-before in that behalf provided, such baron, or such other party as aforesaid, shall convey such lands to the promoters of the undertaking, and such conveyance shall have the effect of vesting such lands in the promoters of the undertaking, in like manner as if such baron, or such other party as aforesaid, had been seised in fee simple of such lands at the time of executing such conveyance; and in default of such conveyance it shall

be lawful for the promoters of the undertaking, if they think fit, to execute a deed poll, duly stamped, in the manner herein-before provided in the case of the purchase of lands by them, and thereupon the lands in respect whereof such last-mentioned compensation shall have been paid into the Senior Courts as aforesaid shall vest absolutely in the promoters of the undertaking, and they shall be entitled to immediate possession thereof, subject nevertheless to the commonable and other rights theretofore affecting the same, until such rights shall have been extinguished by payment as hereinafter provided of compensation for the same either to the persons entitled thereto or into the Senior Courts.

1845

Inclosure Act 1845 8 & 9 Victoria c. 118

S. 12 Provided also, that neither this Act, nor anything which may be done under or by virtue thereof, shall authorise to be made any embankment, erection, or encroachment, without the consent of the Secretary of State to wastes of manors and lands subject to indefinite common rights at all times not to be inclosed without previous direction of Parliament.

S. 23 The proportional value of the interest of the lord of a manor interested as lord in any land subject to be inclosed under this Act, or, the proportional value of the respective interests of such lords, shall for the purposes aforesaid be estimated in such manner as the commissioners may direct.

S. 116 The right of soil of an in all land which shall be converted into regulated pastures shall, subject to the right of the baron to all or any of the mines, minerals, stone, and other substrata, where the same shall be reserved to him under this Act, and to the other rights given or reserved by this Act and the award in the matter of such inclosure, be vested in the persons who under the directions and determinations of such award shall be the owners of the stints or

rights of pasture therein, in proportion to the shares or aliquot parts which such stints shall be thereby declared liable to of any rate under this Act, as tenants in common.

1852

Copyhold Act 1852 15 & 16 Victoria c. 51

Preserved the Baron's right of minerals, markets and sporting; the Act is to taken and construed as part of the 1841 Act (so that the right of the Baron to escheat remains reserved to him).

1859

Inclosure Act 1859 22 & 23 Victoria c. 43

Where the right and interests in any and all mines and minerals are reserved to the baron with the baron's right to enter the lands when inclosed, the baron may work it for his own ends.

1861

***Berkeley's Case* (1861) *The Times* (11 July 1861) 3**

Confirmed the decision in *Fitzwalter's Case* and the Tenures Abolish Act 1660.

As with the *Fitzwalter Case*, recognised and confirmed the elevation of William Berkeley to Baron Berkeley of Berkeley Castle.

Whilst a territorial barony continues to exist in law as a title of honour (as freehold rather than tenure with obligations) it does not equate to peerage and a territorial baron cannot make a petition for such recognition.

1862

***Delacherois v. Delacherois* (1862) HL Cas 62, 11 ER 1254**

If the lord of a superior interest acquires an inferior one by act of parties it does not merge, but is thenceforward held of the chief lord.

In principle, a manor no more ceases to exist where the owner cannot be traced than a freehold does, but the physical land comprising the freehold will still exist, whereas a manor is incorporeal. The manor

may still exist and someone may be able to claim it later. [Thus, the right of occupation exercised by Christian Pitt over the barony in 2024].

1875

Mar Peerage Case (1875)

House of Lords Committee on Privileges ruled the Earldom of Mar was newly created in 1565 by letters patent and thus ended the right of writ of summons by virtue of the title being a territorial earldom created before that time. Lord Chancellor Lord Selborne declared this to be ‘final, right or wrong, and not to be questioned’. The decision was overturned by the Earldom of Mar Restitution Act 1885 48 & 49 Victoria c. 48, and it would now be assumed that there are two earldoms of Mar in law.

1875

Public Health Act 1875 38 & 39 Victoria c. 55

All streets, being or which at any time become highways repairable by the inhabitants at large within any urban district, and the pavements stones and other materials thereof, and buildings implements and other things provided for the purposes thereof, shall vest in and be under the control of the urban authority.

1876

Eardley v. Granville (1876) 3 Ch D 826

As regards the trees and minerals, the property remains in the lord, but, in the absence of custom, he cannot get either the one or the other, so that the minerals must remain unworked, and the trees must remain uncut. The possession is in the copyholder; the property is in the lord... The same rule applies to minerals as to trees. If you once cut down the tree, the lord cannot compel the copyholder to plant another. The latter has a right to the soil of the copyhold where the tree stood, including the stratum of air which is now left vacant by reason of the removal of the tree.

1880

In re Mercer and Moore (1880) LR 14 Ch D 287

If they are applicable to the Crown, I agree there must always be a person in existence as to the freehold estate as there is with a copyhold estate, because if there were no lords of the manor, it would at once go back to the Crown.

1880

***Rolls v. Vestry of St. George the Martyr, Southwark* (1880) 14 Ch D 785 at 795**

What that case decided, and all that it was necessary to decide in that case, was that something more than an easement passed to the local board, and that they had some right of property in and on and in respect of the soil which would enable them as owners to bring a possessory action against trespassers. Now what was that something more? It is impossible to read any of the three judgments delivered on that occasion without seeing that in the view of the learned Judges the soil and freehold in the ordinary sense of the words ‘soil and freehold’, that is to say, the soil from the centre of the earth up to an unlimited extent into space, did not pass, and that no stratum or portion of the soil, defined or ascertainable like a vein of coal, or stratum of ironstone, or anything of that kind, passed, but that the board had only the surface and with the surface such right below the surface as was essential to the maintenance, and occupation, and exclusive possession of the street, and the making and maintaining the street for the use of the public.

If the road is closed, the surface reverts in the owner of the subsoil.

1881

**Conveyancing and Law of Property Act 1881 44 Victoria c. 41
2.**

(iv) Manor includes lordship, and reputed manor or lordship.

(v) Conveyance, unless the contrary intention appears, includes assignment, appointment, lease, settlement, and other assurance, and covenant to surrender, made by deed, on a sale,

mortgage, demise, or settlement of any property, or on any other dealing with or for any property; and convey, unless contrary intention appears, has a meaning corresponding with that of conveyance.

6.

(3) A conveyance of a manor shall be deemed to include and shall by virtue of this Act operate to convey, with the manor, all pasture, feedings, wastes, warrens, commons, mines, minerals, quarriers, furzes, trees, woods, underwoods, coppices, and the ground and soil thereof, fishings, fisheries, fowlings, courts leet, courts baron, and other courts, view of frankpledge and all that to view of frankpledge doth belong, mills, mulctures, customs, tolls, duties, reliefs, heriots, fines, sums of money, amerciaments, waifs, estrays, chief-rents, quit rents, rentscharge, rents seek, rents of assize, fee farm rents, services, royalties, jurisdictions, franchises, liberties, privileges, easements, profits, advantages, rights, emoluments, and hereditaments whatsoever, to the manner appertaining or reputed to appertain, or at the time of conveyance demised, occupied, or enjoyed with the same, or reputed or known as part, parcel or member thereof.

(4) This section applies only if and as far as a contrary intention is not expressed in the conveyance, and shall have effect subject to the terms of the conveyance and to the provisions therein contained.

(5) This section shall not be construed as giving to any person a better title to any property, right, or thing in this section mentioned than the title which the conveyance gives to him to the land or manor expressed to be conveyed, or as conveying to him any property, right, or thing in this section mentioned,

further or otherwise than as the same could have been conveyed to him by the conveying parties.

1881 ***Metropolitan Asylum District v. Hill* (1881) 6 App Case 193**

It is clear that the burden is on those who seek to establish that the legislature intended to take away the private rights of individuals to show that by express words or by necessary implication such an intention appears.

1894 **Copyhold Act 1894 57 & 58 Victoria c. 46**

By reserving any form of escheat, even if only for lack of heirs, this Act must have preserved a tenurial relationship between former lord and tenant (and thus would carry escheat in the surviving forms of disclaimer and corporate dissolution).

1896 **The Land Laws (3rd edition), F. W. Pollock**

The lord of the manor is the sovereign prince over his lands (so far as the laws of the Realm fail to prevent him otherwise).

All land belongs to someone. Contrary to socialist ideology, the State is not, and cannot, be assumed to be the universal landlord. In England, there must be an owner of land somewhere; the Crown in the last resort if no other is forthcoming.

At this period of time, land may be held by a farmer on a lease made by a copyholder, while the freehold remains with the lord of the manor.

The Manor is the creation of German freemen dependant on a chief. Over time, these freeman gained dependant freeman: thus brining about a distinction in dignity between a 'lord' and a 'tenant'. The lord is expected to provide support for dependants: be they the product of increased population, those seeking property of themselves or those

needing protection for their property. Those without a lord are outside the protection of the law. Thus, the great influx of those outside the law seeking the protection of the lord to gain the civil protection of the state. Lordships are acquired before the Conquest by birth, by honour or by strength. This lays the foundation for acquisition of title to a Manor by descent, by alienation or by occupancy. Before the Conquest, this system grew independent of the folk-land commonality (without an administration of its own [which, today, would best be understood as a parish council]). Legitimacy and superiority was guaranteed by a sovereign lord (that is, the Crown) to a lord by granting rights to hold courts of justice and rights to collect revenue from amongst the commonality.

Purpose of manorial system for military defence. A baron granted his office for trust and confidence in his services to the people. Contrary to the Continental systems, English baronies are political rather than personal in nature.

All land is a donation from the Crown to the baronies, and from the baronies to freeholders within every manor. This legal fiction applies even when freeholders are at their own will to dispose of real property as they please.

Occupation of land — whether a manor or freehold — depended on notoriety. That is, *livery of seisin*; whereby, a public act must be made so all know who is the baron or landholder of a parcel of land. Increasingly, this was replaced by the charter (which became the deed) in which a public record is made on the ownership of land authenticated by a seal. Notoriety depends on the declaration of ownership and the entering of land.

In English law, all title to land is founded on possession.

There are several cases in which wrongful dealing with land had been so far effectual as to deprive the person really entitled to the summary right of entry which he could have used against a mere intruder. The true owner who has lost actual possession and the right of entry is no better off than a claimant who had never been in possession.

A feudal tenancy is not merely a possession, but an office of trust and confidence, it is more difficult to account for inheritance being the rule, or being allowed at all, than for dispositions by will not being allowed.

The transaction of title is proved by the witness of neighbours, who attend for the purpose of keeping it in memory. It is a record not of an ordinary conveyance, but of an act of State; and it is witnessed by officers of State, not by the neighbours or the popular Court. The lord is expected to know the dealings of his tenants with their land: the tenant is expected to know if he was to have a new lord.

By the Statute of Uses 1536 (and, by extension, the nature of a trust instrument: especially a family settlement) it was enacted that thereafter whoever should have an 'use, confidence or trust' in any hereditaments should be 'deemed and adjusted in lawful seisin, estate and possession' for the same estate that he had in use. But in no case may the period open for claims of persons out of possession be extended beyond thirty years in all from the time when possession begins to count against a freeholder entitled to an estate of inheritance. But where there is a tenant for life in possession his acts or neglects cannot affect the title of those in remainder, and therefore when land is in settlement a much longer period may elapse before a title resting merely on adverse possession or occupancy can become safe.

Family settlements acknowledged as a burden to the management of land (especially politically; as well as socially and economically). Equity and precedent ought to be taken from the *Code Napoléon* (as well as the Englishman's character, the commercial nature of the age and the conventions of English speaking Colonies and overseas settlements) for absolute ownership of land contrary to the sentiment and rulings of Lord St. Leonards; in favour of the spirit and purposes of Coke and Bacon for use of land. Lord St. Leonards speaks of family settlements being like timepieces, and because of their complexity they ought to be marvelled and respected as useful in themselves. Although, the reality is that timepieces — regardless of complexity — have as their final cause the telling of time. Naturally, the more accurate this is the more useful it is. In a similar way, baronies — as political instruments — are only useful if they serve their purpose in effecting municipal government, not as mere reliquaries of rights over land. How ridiculous it would be for rulers and realms and the people whose happiness they are designed to govern to fail because the realities of possession were denied to the favour of the constraints of complex legal arrangements.

England must avoid the socialists ambitions towards the State becoming landlord of the people, and people lord over themselves as this would fundamentally change English land law in essence and appearance: being alien and impotent to the Englishman's virtues.

1899

Commons Act 1899 62&63 Victoria c. 30

Mid Sussex District Council has the power to make regulations with respect to common land, but either the baron or one-third of persons interested in the common may veto it in writing before its approval.

1907

***Batten Pooll v. Kennedy* [1907] 1 Ch 256**

Once minerals are removed, the void will still belong to the mineral owner because a volume of property of the earth beneath the surface has become a separate piece of property.

1916

Equity, also the Forms of Action at Common Law, F. W. Maitland

Until the passing of the Trust Property Escheat Act 1834 4 & 5 William IV c. 23, equitable rights could not be forced against a lord coming by way of escheat upon the death of the trustee [a similar argument, naturally, holds for right of occupancy]. A trust in fee simple died intestate without an heir; the legal estate escheated to the lord [and in absence of escheat, a right to occupancy]. What equity was there against the lord? He did not claim through or under the trustee, and his conscience was not affected by the trust. The point is now unimportant, because the Act just mentioned, now replaced by later Acts, provides for the continuance of the trust even though there is an escheat of the legal estate. [Note *provides* for, rather than *automatically brings about*].

With respect to adverse possession [a similar concept to right of occupancy], the principle still holds that if baronies are to be removed from occupiers who are no wise bound by the trust, it must be proved that the trustee has a superior title. [Thus, until a superior title may be held, the right of occupancy subsists till challenged, if at all].

Equity may sometimes enforce an agreement which, owing to the absence of any written note of it, could not be relied on in a court of law. The Court should find the parties unequivocally in a different position from that in which according to their legal rights they would be were there no contract. Thus we get the rule that delivery of possession is a sufficient part performance on the part of the vendor to sustain his suit against the purchaser, and that acceptance of possession is a sufficient part performance on the part of the purchaser to sustain his suit against the vendor. This must depend on

some cogent evidence before you may receive oral evidence of the agreement. So was ruled in *Hughes v. Morris*, 2 De G. M. and G. [p. 356]. However, where there is a promise to bring about such an settlement after some other event (for instance, marriage or servitude to another for a period of time) this can not be relied on as a part performance to take the case out of the Statute and must be proved separately (*Maddison v. Alderson*, 8 Ap. Cas. 467). Thus, acts of performance can only be brought about by delivery and acceptance of possession of land, and in some cases retention of possession of land.

1919

***Central Control Board (Liquor Traffic) v. Cannon Brewery Company Limited* (1919) App Case 744**

The rule [as to Parliament's] intention to take away the property of a subject without giving him a legal right to compensation for the loss of it is not to be imputed to the legislature unless that intention is expressed in unequivocal terms. Apart from the force of public opinion, one of the protections of subjects' liberties is the rule of construction that statutes and other legislative acts are, so far as it is possible, to be interpreted so as not to cause any interference with his vested constitutional rights.

1922

Law of Property Act 1922

Baronial rights preserved and protected by statutory rights; copyhold, heriots and quitrents abolished. These rights include: land enfranchised by this Act shall not be subject to any estate, right, charge, or interest affecting the manor (and this includes escheat) [if follows that where a copyhold was enfranchised by statute between 1841 and 1887, the right to escheat for any cause was retained, and for land enfranchised between 1887 and 1925, it is likely that the tenurial relationship preserved by escheat for lack of heirs also preserved other forms of escheat].

The Baron's customary right of property in timber on copyhold is abolished.

1924

Law of Property (Amendment) Act 1924 15 & 16 George V c. 5

All manorial documents placed under the charge and superintendence of the Master of the Rolls.

1925

Settled Land Act 1925 15 & 16 George V c. 18

Allows succession in tail for family settlements to continue.

1925

Law of Property Act 1925 15 & 16 George V c. 20

All lands and interests therein lie in grant and are incapable of being conveyed by livery or livery and seisin, or by feoffment, or by bargain and sale; and a conveyance of interest in land may operate to pass the possession or right to possession thereof, without actual entry, but subject to all prior rights thereto.

Rights to land separated from land *per se* (and are to be conveyed separately in future). Defines land to include corporeal and incorporeal hereditaments (including manors and reputed manors). A conveyance of a manor or reputed manor (S. 205(1)(ix)) carries with it the commons, waste, mines and minerals [S. 62(3)]. All types of fee are converted to fee simple, and copyholds to freeholds. All copyhold records must be logged with the National Archives.

All conveyances of land or of any interest therein are void for the purpose of conveying or creating a legal estate unless made by deed. This does not apply to conveyances taking effect by operation of law.

No interest in land can be created or disposed of except by writing signed by the person creating or conveying the same, or by his agent thereunto lawfully authorised in writing, or by will, or by operation of law; a declaration of trust respecting any land or any interest therein

must be manifested and proved by some writing signed by some person who is able to declare such trust or by his will; or a disposition of an equitable interest or trust subsisting at the time of the disposition, must be in writing signed by the person disposing of the same, or by his agent thereunto lawfully authorised in writing or by will.

The right of the Baron to woodland is preserved under S. 62(3); though it may be hard to classify either as demesne or waste. As the Baron had a fee simple in the copyhold land before 1926, then that fee simple is not affected and the lord still holds it (with respect to mineral rights).

Members of public have rights of access over commons and waste lands for air and exercise to manorial waste or commons and to any land subject to rights of common subject to:

(a) any Act, scheme, provisional order, byelaw, regulation or order made thereunder or under any statutory authority; AND

(b) the Minister, on the application of the baron, imposing limitations and conditions as to the exercise of rights of access or to the extent of land to be affected as are necessary or desirable for preventing any estate, right or interest of a profitable or beneficial nature in, over, or affecting the land from being injuriously affected;

The baron may by deed, revocable or irrevocable, declare that this section shall apply to the land, and upon such deed being deposited with the Minister the land shall, so long as the deed remains operative, be land to which this section applies.

S. 45 (1) With regard to the real estate and personal inheritance of every person dying after the commencement of this Act, there shall be abolished—

(a) All existing modes rules and canons of descent, and of devolution by special occupancy or otherwise, of real estate, or of a personal inheritance, whether operating by the general law or by the custom of gavelkind or borough english or by any other custom of any county, locality, or manor, or otherwise howsoever; and

(b) Tenancy by the curtesy and every other estate and interest of a husband in real estate as to which his wife dies intestate, whether arising under the general law or by custom or otherwise; and

(c) Dower and every other estate and interest of a wife in real estate as to which her husband dies intestate, whether arising under the general law or by custom or otherwise; and

(d) Escheat to the Crown or to a mesne lord for want of heirs.

(2) Nothing in this section affects the descent or devolution of an entailed interest.

1925

Honours (Prevention of Abuses) Act 1925 c. 72

It is a criminal offence to use a peerage title without letters patent from the Crown. Baronial titles *per baroniam* may continue to be used by holders.

- 1926 **The Constitutional History of England, F. W. Maitland**
 Dark as is the early history of the manor, we can see that before the Conquest England is covered by what in all substantive points are manors, though the term manor is brought hither by the Normans. The baron's authority to govern is measured by his ability to say 'It is my will'. And so, barony per baroniam pre-dates the peerage by at least 200 years: the former vested in jurisdiction over land; the latter in the will of the Crown (which since 1999 is now purely honorific).
- 1939 **Limitations Act 1939 3 George VI**
 Incorporeal hereditaments are excluded from adverse possession.
- 1960 **Caravan Sites and Control of Development Act 1960 8 & 9 Elizabeth II c.62**
 On the date of first publishing a notice, Mid Sussex District Council must serve a copy on the baron; serving on him by a registered letter to his usual or last known address.
- 1965 **Compulsory Purchase Act 1965 12 Elizabeth II c. 56**
Schedule I It shall be lawful for all persons who are seised or possessed of or entitled to any of the land subject to compulsory purchase, or any estate or interest in any of that land, to sell and convey or release it to the acquiring authority, and to enter into all necessary agreements for the purpose.
- The following power conferred on a baron by Schedule 4 to this Act may lawfully be exercise by any person enabled under the foregoing paragraph to sell and convey or relate land to the acquiring authority.
- Schedule IV** The compensation in respect of the right in the soil of any of the land subject to compulsory purchase and subject to any rights of common shall be paid to the baron, in case he is

entitled thereto, or to such party, other than the commoners, as is entitled to the right in the soil.

The compensation in respect of all other commonable and other rights in or over such land, including therein any commonable or other rights to which the baron may be entitled, other than his right in the soil of the land, shall be determined and paid and applied in the manner provided in the following provisions of this Schedule with respect to common land the right in the soil of which belongs to the commoners: and upon payment of the compensation so determined either to the persons entitled thereto or into court all such commonable and other rights shall cease and be extinguished.

On payment or tender to the baron, or such other party as aforesaid, of the compensation agreed or awarded in respect of the right in the soil of any such land, or, where provided for in this Act, on payment into court of that compensation, the lord of the manor or other party shall convey the land to the acquiring authority.

The conveyance shall have the effect of vesting the land in the acquiring authority as if the baron or other party had been seised in fee simple of the land at the time of executing the conveyance.

In default of such a conveyance it shall be lawful for the acquiring authority, if they think fit, to execute a deed poll in the manner provided by section 9(3) of this Act, and thereupon the land in respect of which the compensation was paid into court shall vest absolutely in the acquiring authority and they shall be entitled to immediate possession thereof, subject nevertheless to the commonable and other rights theretofore affecting the same, until those rights have been extinguished by payment, as hereinafter provided, of compensation for the same either to the persons entitled thereto or into court.

The acquiring authority may convene a meeting of the persons entitled to commonable or other rights over or in the land subject to compulsory purchase to be held at some convenient place in the locality for the purpose of appointing a committee to treat with the acquiring authority for the compensation to be paid for the extinction of the commonable or other rights. If the land is parcel of or held of a manor, the notice of the meeting shall also be given to the lord of the manor.

1967

The Manorial Documents (Amendment) Rules 1967

When the baron intends to remove manorial documents from a record repository, he must three months before their removal, give written notice to the secretary of the Historical Manuscripts Commission particulars of the documents and where they will be moved to.

1976

***Re Mansfield District Council's Application* (1976) 36 P & CR 141**

Former copyhold land before the passing of the Law of Property Act 1922 remains parcel of manor (at least in equity) in relation to the benefit of restrictive covenants.

Mr. E. G. Nugee QC argued enfranchised tenements remained subordinate to the manor, and so escheat may still be claimed.

1977

Administration of Justice Act 1977 24 Elizabeth II c. 38

Abolition of the criminal jurisdiction within the Manorial Court; however, continuation of the existence of the Manorial Court.

1980

Limitation Act 1980 27 Elizabeth II c. 58

At s. 38, the Act states land includes corporeal hereditaments, tithes and rent-charges and any legal or equitable estate or interests therein... but except as provided above in this definition does not include any incorporeal hereditament [and so, a manor (and with it

the title and any land or rights that remain attached and not severed from it)].

1980

Highways Act 1980 27 Elizabeth II c. 66

S. 130(1) It is the duty of the highway authority to assert and protect the rights of the public to the use and enjoyment of any highway for which they are the highway authority, including any roadside waste which forms part of it.

Subject to the provisions of this section [S. 263], every highway maintainable at the public expense, together with the materials and scrapings of it, vests in the authority who are for the time being the highway authority for the highway.

1982

The Commons (Schedule) Regulations 1982

Notice of intention to make a scheme under this Act must be given by sending a copy of the notice to the baron.

1986

Statute Law Repeals Act 1986 33 Elizabeth II c. 12

There is no limitation period for the acquisition of baronies.

1986

***Corpus Christi College v. Gloucestershire County Council* [1982] QB 360**

Lord Denning M.R. explained when freehold of what had formerly been waste of the manor became severed from the lordship, it ceased to be part of the manor. This applies whether the severance took place voluntarily (as by conveyance) or involuntarily (as by extinguishment of title). It follows any right of the baron restricted to lands forming part of the manor ceases to be exercisable over the severed land [but not, of course, to land that remains parcel and has not been severed].

1990

***Buckinghamshire County Council v. Moran* [1990] Ch 623**

Possession is never 'adverse' within the meaning of the 1980 Act if it is enjoyed under a lawful title. If, therefore, a person occupies or uses land by licence of the owner with the paper title and his licence has not been duly determined, he cannot be treated as having been in 'adverse possession' as against the owner of the paper title.

[By implication, this protects all manorial waste within the Manor of Cuckfield because all waste is vested in the local authority, and so there is a lawful title to manage waste as if they were the owners until a better title can be established; which, for the Manor, it can on all land not separated from it.]

1993

***Sussex Investments Ltd. v. Cornell* [1993] The Times, 29 July, CA**

The highways authority's title to a highway normally only extends to the surface and enough airspace to allow passage (for roads) by vehicles.

1995

***Scmla Properties Ltd. v. Gesso Properties (BVI) Ltd.* [1995] BCC 793**

Escheat is automatic and does not depend on the exercise of a power of entry.

1996

***Norman v. Department of Transport* (1996) 72 P & CR 210**

The vesting for national roads is usually the Highways Agency and for local roads the county or unitary authority; however, that does not affect the title of the owner of the soil to the subsoil or the airspace above that is needed for passage by users. [confirming the decision of *Goodtitle, ex dimiss. Chester v. Alker and Elmes*].

1996

Trust of Land and Appointment of Trustees Act 1996 43 Elizabeth II c. 47

Under this Act, no new strict settlements may be created. Any new trust created to hold land falls under this modern framework. Pre

existing settlements remain legally valid and govern the land, but only under the old rules until all estate land is sold.

2002

Land Registration Act 2002 49 Elizabeth II c. 9

When land escheats to the Crown, the land becomes royal demesne. Likewise, escheat to the Baron results in it becoming part of the Baron's manorial demesne (like the manor itself and in any parcels such as waste) for a legal estate in fee simple in possession. This must be registered with His Majesty's Land Registry.

All manorial waste must be registered under Section 4 as a transfer of a qualifying estate (freehold) for valuable or other consideration, by way of gift, in pursuance of an order of any court, by means of an assent or by giving effect to a partition of land subject to a trust of land. Under Section 6, this duty to apply for registration is on the responsible estate owner [the Baron], or his successor in title. The period for registration is 2 months beginning with the date on which the relevant event occurred [most likely to be seen as 20 August 2024 for the Manor of Cuckfield], or such longer period as the registrar may provide. Such longer period may be extended by the registrar where he is satisfied there is good reason for doing so; specifying the period for registration ends on such later date as in his order. Under Section 7, if the requirement for first registration is not complied with, the transfer, grant or creation of the legal estate over manorial waste becomes void.

Associated rights over minerals and timber in land may have lost any status as overriding interests and, if not entered on the register of the servient title, may be unenforceable.

2002

***Thoburn v. Sunderland City Council* [2002] EWHC 195 (Admin)**

Laws L.J. at [62] - [63]: We should recognise a hierarchy of Acts of Parliament: as it were 'ordinary' statutes and 'constitutional' statutes.

The two categories must be distinguished on a principled basis. In my opinion a constitutional statute is one which (a) conditions the legal relationship between citizen and State in some general, overarching manner, or (b) enlarges or diminishes the scope of what we would now regard as fundamental constitutional rights. (a) and (b) are of necessity closely related: it is difficult to think of an instance of (a) that is not also an instance of (b). The special status of constitutional statutes follows from the special status of constitutional rights.

Examples are the Magna Carta, the Bill of Rights 1689, the Act of Union, the Reform Acts which distributed and enlarged the franchise, the HRA, the Scotland Act 1998 and the Government of Wales Act 1998. The ECA clearly belongs in this family. It incorporated the whole corpus of substantive Community rights and obligations, and gave domestic effect to the judicial and administrative machinery of Community law. It may be there has never been a statute having such profound effects on so many dimensions of our daily lives. The ECA is, by force of the common law, a constitutional statute.

Ordinary statutes may be impliedly repealed. Constitutional statutes may not. For the repeal of a constitutional act or the abrogation of a fundamental right to be effected by statute, the court would apply this test: is it shown that the legislature's actual — not imputed, constructive nor presumed — intention was to effect the repeal or abrogation?

[By implication of this ruling, a territorial barony is part of the English constitution under category (a) as recognised by English statutes and common law and under (b) for what rights are granted with such offices. As such, as a constitutional act (in the ordinary sense rather than to mean primary legislation), the Barony of Cuckfield itself and the means of acquiring it (including by right of occupancy) remain; as no statute of Parliament has repealed the office of nor abrogated the rights attached to (including the rights of

acquiring) territorial baronies. The test is: is it shown that Parliament's actual — not imputed, constructive nor presumed — intention was to repeal the office of territorial baron or abrogate the rights of acquiring or executing the powers of the office? At present, there is no such actual intention to repeal nor to abrogate. And thus, Christian Pitt's acquisition of the Barony of Cuckfield by right of occupancy is valid under English constitutional law following this submission].

2002

***Commission for the New Towns v. JJ Gallagher Ltd.* [2002] EWHC 2668 (Ch)**

Where a piece of land which adjoins a highway is conveyed by general words, the presumption of law is, that the soil of the highway *usque ad medium filum* passes by the conveyance, even though reference is made to a plan annexed, the measurements and colouring of which would exclude it.

2003

***J. A. Pye (Oxford) v. Graham* [2003] 1 A.C. 419**

Factual possession signifies an appropriate degree of physical control. It must be a single and [exclusive] possession, though there can be a single possession exercised by or on behalf of several persons jointly. Thus an owner of land and a person intruding on that land without his consent cannot both be in possession of the land at the same time. The question what acts constitute a sufficient degree of exclusive physical control must depend on the circumstances, in particular the nature of the land and the manner in which land of that nature is commonly used or enjoyed... Everything must depend on the particular circumstances, but broadly, I think what must be shown as constituting factual possession is that the alleged possessor has been dealing with the land in question as an occupying owner might have been expected to deal with it and that no-one else has done so.

What is crucial is to understand that, without the requisite intention, in law there can be no possession... there has always, both in Roman law and in common law, been a requirement to show an intention to possess in addition to objective acts of physical possession. Such intention may be, and frequently is, deduced from the physical acts themselves. But there is no doubt in my judgment that there are two separate elements in legal possession. So far as English law is concerned intention as a separate element is obviously necessary. Suppose a case where A is found to be in occupation of a locked house. He may be there as a squatter, as an overnight trespasser, or as a friend looking after the house of the paper owner during his absence or holiday. The acts done by A in any given period do not tell you whether there is legal possession. If A is there as a squatter he intends to stay as long as he can for his own benefit: his intention is an intention to possess. But if he only intends to trespass for the night or has expressly agreed to look after the house for his friend he does not have possession. It is not the nature of the acts which A does but the intention with which he does them which determines whether or not he is in possession.

2003

***Brandwood & Ors. v. Bakewell Management Ltd.* [2003] EWCA Civ 23**

Private right of way by prescription over a common not granted where done illegally and without the baron's permission. Construction in light of Law of Property Act 1925: members of the public may use the common but not allow rights of access to vehicles, camps or light a fire.

2003

***Besley v. John* [2003] EWCA Civ 1737**

Confirms the Law of Property Act 1925 that rights of common, in the absence of evidence to the contrary, may be assumed to exist as matter of express grant, prescription or custom in favour of the baron.

That said, the terms of these must be strictly adhered to; so far as it is reasonably necessary in light of changes to social circumstances.

2005

Oxfordshire County Council v. Oxfordshire City Council & Anor.

[2005] EWCA Civ. 175

Whilst relating to class c village greens, the principles here are relevant for customary greens (class b greens) and commons within the Manor of Cuckfield. Namely:

(i) registration of land as a class c green does not of itself confer nor imply any rights on the part of local inhabitants to indulge in sports and pastimes on that land [however, for class b greens, like Muster Green, it does, and this status and the rights with it will assume to have been the case 20 years prior to 1970 (notwithstanding evidence to the contrary either customary, rights of use (*nec vi, nec clam, nec precario*) or in ownership which, at the time of application, remained unregistered, and thus title to manorial waste must be superior to the District, and then the Town Council's adoption of it];

(ii) such registration is conclusive that the land is a town or village green within the scope of (*inter alia*) section 12 of the Inclosure Act 1857 and section 29 of the Commons Act 1876 [meaning class b greens being registered under the 1965 Act merely state the status, but not the ownership of, the greens, and prohibits rights of use contrary to lawful sports and pastimes from users and prevention of this use from owners];

(iii) the words 'continue to do so' in the amended definition means that the lawful sports and pastimes must continue to the date of registration [coming into effect on the date of application];

(vi) the county council has power to treat the applications as if a different date had been specified in Part 4, and to determine the application on that basis;

(vii) as a matter of law, it would be open to the county council on proper consideration to permit an applicant's application to be amended to refer to a lesser area, as proposed by him [this is an administrative rather than a legal decision; which the applicant cannot enforce nor demand but that the county council should consider when reasonable];

(viii) as a matter of law, it would be open to the county council on proper consideration to register as a green part only of the land included in the application; AND

(ix) and (x) matters of fact and degree are left to the county council for evaluation, the question being: how would a reasonable landowner have interpreted how the user made use of the land?

2006

Commons Act 53 Elizabeth II c.26

The Baron, as owner, has the right to minerals and timber on or in the demesne and waste; although, on the waste, that may not be exercised so as to interfere with rights of common. Uninclosed waste will now be registered under the Act and opening a new quarry or establishing a new plantation will involve fencing off the land and that may only be done with the consent of the Secretary of State under S. 38.

The general rule remains the lord may (subject to planning consent) take minerals by underground working, and small quarries or coppices are usually tolerated by the commoners provided their interests are not harmed.

2007

***Roberts v. Swangrove Estates Ltd. & Anor* [2007] EWHC 513 (Ch)**

Where a territorial barony is established, the holder will be assumed to hold title to all demesne and waste within a manor. The burden is on a defendant to prove that title has transferred to him.

This includes, in particular, by adverse possession (following the Land Registration Act 2002). In order for a claim under this ground to succeed, it must have proof of *animus possidendi* to own the land exclusively as well as possession and control over the land for an unbroken period of 12 years that is visible or could have come to the attention of the holder of the paper title.

A right over land (in this case, several fishery) is not indicative proof of adverse possession.

2008

***Roberts v. Crown Estate Commissioners* [2008] EWCA Civ 98**

Confirmed the High Court decision that disseisin and forfeiture are no longer relevant concepts with respect to adverse possession by The Crown. And so, the Crown may claim land by adverse possession in the same way as between subjects.

Further ruled that conditional occupation is not relevant to prevent adverse possession; as adverse possession only turns to the act of possession with the intent to be the exclusive owner continuously by 12 years.

2008

***Crown Estate Commissioners v. Roberts & Anor* [2008] EWHC 1302 (Ch)**

Confirmed when territorial baronies are transferred, the land and rights remain attached unless severed or extinguished from lack of use where there was an opportunity to exercise the right.

Further confirmed adverse possession fails when applied to a incorporeal hereditament (including manors, the title to their baronies and any other rights or franchises attached to it).

2008

***Bocardo SA v. Star Energy UK Onshore Ltd. & Anor* [2008] EWHC 1756 (Ch)**

Where minerals are vested in a baron but the land above is severed and belongs to someone else, the minerals continue to belong to the baron. However, permission for access to the land for extraction is still required from the owner of the land.

As such, the traditional approach is to split compensation 50/50 because the owner of the source can block extraction of the subjacent minerals and hold the baron to ransom and thus is entitled to a large sum. Alternatively, all circumstances of the case must be taken into consideration. It must be taken into consideration that the Mines (Working Facilities and Support) Act 1923 was passed to prevent people from holding up coal by unreasonable claims.

2008

***Wild v. Secretary of State for Environment, Food and Rural Affairs & Ors.* [2008] EWHC 3461 (Admin)**

Affirmed possession of manorial rights over land cannot be acquired by adverse possession. Therefore, they remain with a baron regardless of lack of execution. Although, confirmed rights of way over a public path may be severed when dedicated expressly or by implication to the public; alternatively, under s. 31 of the Highways Act 1980 when used without interruption for a period of 20 years retrospectively from the date when right of public to use it is brought into question.

2008

***Geronimo Ltd. & Anor v. Brentford Yacht and Boat Company Ltd.* [2008] EWHC 3140 (Ch)**

Clarified where proof of conveyance or adverse possession fails, property remains vested in the original paper title holder.

2009

***Star Energy UK Onshore Ltd & Anor v. Bocardo SA* [2009] EWCA Civ 579**

Confirmed the decision in *Eardley v. Granville*. Further noted the right of the relevant person to get access to the minerals in strata which he owns or has leased must be the principle of non-derogation from grant. A person who sells or lets land, knowing that the purchaser intends to use it for a particular purpose, may not do anything to hamper the use of the purchaser's or lessee's land for the purpose which both parties contemplated at the time of the transaction. The principle binds successors in title to the vendor or lessor.

2009

***Wild v. Secretary of State for Environment, Food and Rural Affairs & Anor* [2009] EWCA Civ 1406**

Overturned the ruling in the King Bench Division. Stated the correct approach for claims for acquisition of rights by a local authority turns to use by the public as well as the subsequent approval and dedication by a baron of this use (especially with respect to rights of way). It will be an error in law for a local authority to grant a right where an objection has been made publicly by a person or persons who are or may be a baron (that is, owner of right over land), but nonetheless, the local authority continues to grant it. Such an erroneous decision would fail on Wednesbury grounds.

2010

***Smith, R (on the application of) v. The Land Registry (Peterborough Office) & Anor.* [2010] EWCA Civ 200**

Confirmed the Court of Appeal decision in *Wild v. Secretary of State for Environment Food and Rural Affairs* that rights over land are not subject to adverse possession.

In addition, the court ruled highways are not subject to adverse possession by virtue of the Highways Act 1980 and the common law

maxim raised in *Dawes v. Hawkins* (1860) 8 C.B. N.S. 848: ‘once a highway, always a highway’, but should a highway be discontinued, following *Rolls*, the now waste land would revert to the baron.

Highways include byways open to all traffic, bridleways and footpaths (that is, the surface of the land and the public right of way over it, but not roadside verges which, though subject to creep, otherwise remain waste or following the *medium filum* rule, where attached to a freehold, part of that freehold).

The materials and scrapings appear to be whatever is used to make the surface of the road, such as tarmac, gravel, sand etc...

2011

***ADM Milling Ltd. v. Tewkesbury Town Council* [2011] EWHC 595 (Ch)**

An open field subject to legal rights of common is known as a common field. The use of the open field is by mutual tolerance and subsists as a practice, not by right, for the community rather than the manorial court.

Further confirmed common rights are extinguishable by three means: unification, release or abeyance.

2013

***Norbrook Laboratories Ltd. v. Carlisle City Council* [2013] EWHC 1113 (Admin)**

The Forestry Commission controls the felling of trees on private land but that does not extent to public open space. As commons are public open space, because there is a public right of access over the land, it is exempt from Forestry Commission control and the only recourse would be for a Council to make a tree preservation order.

2015

***London Borough of Southwark & Anor. v. Transport for London* [2015] EWHC 3448 (Ch)**

[39] “Highway” is used not to indicate some rather artificial vertical limits to vesting, but to describe the “road” bits rather than the “ancillary” bits.

[55] In terms of the horizontal scope of Article 2(1)(a), it must extend to what is properly called the highway, but not into land which cannot properly be called the highway.

2018

***London Borough of Southwark and another v. Transport for London* [2018] UKSC 63**

The word highway has no single meaning in law but, in non-technical language, it is a way over which the public have rights of passage, whether on foot or horseback or in (or on) vehicles. At common law, at least prior to 1835, there was, generally speaking, no necessary connection between those responsible for the maintenance and repair of a public highway and those with a proprietary interest in the land over which ran it.

That slice of the vertical plane included, of course, the surface of the road over which the public has highway rights, the subsoil immediately beneath it, to a depth sufficient to provide for its support and drainage, and a modest slice of the airspace above it sufficient to enable the public to use and enjoy it, and the responsible authority to maintain and repair it, and to supervise its safe operation. Or as counsel described it, the ‘zone of ordinary use’.

There is in my view no single meaning of highway at common law. The word is sometimes used as a reference to its physical elements. Sometimes it is used as a label for the incorporeal rights of the public in relation to the *locus in quo*. Sometimes, as here, it is used as the label for a species of real property. When used within a statutory

framework, as here, the word necessarily takes its meaning from the context in which it is used.

CHRONOLOGY OF SPECIAL CUSTOMS, or CUSTUMAL

Pre Conquest	Saxon foundation of the village.
Conquest	Lord William de Warrene becomes first Baron by royal prerogative; builds hunting lodge and chapel at Cuckfield; endowment to Cluniac Priory of Saint Pancras, Lewes.
1088	William de Warenne becomes second Baron by right of inheritance.
1091	Lord William, II Earl of Warenne confirms endowment in charter.
<i>Pre time immemorial</i>	Baron granted ownership and rights over manorial waste. This includes: - Ashenground Wood - Barn Meadow (now called Victoria Park) - Bent's Wood - Blunts Wood - Butler's Green - Catt's Wood - Clair Meadow (now called Clair Park) - Cuckfield Recreational Ground - Franklands Wood - Horsfield Green - Hurst Wood - Inholms Wood - Muster Green - New England Wood - Paiges Meadow - Penland Wood

- Petland Wood
- Slaugham Common
- Staplefield Common
- Tylers Green
- Whiteman's Green
- Verges not subject to the *medium filum* rule
- Air above and ground beneath highways not subject to the 'zone of regular use'
- Ponds

The lords of Trubweek have rights of common on Haywards Heath.

Baron had the following copyhold titles:

- | | |
|------|---|
| 1138 | William de Warenne becomes third Baron by right of inheritance. |
| 1148 | Hamelin de Warenne becomes fourth Baron by right of inheritance. |
| 1160 | William de Warenne becomes fifth Baron by right of inheritance. |
| 1240 | John de Warenne becomes sixth Baron by right of inheritance. |
| 1245 | Bishop Richard de la Wych made church independent from Lewes Priory; appointed first vicar (Fr. Walter de Warnecamp). |
| 1255 | King Henry III issues Earl John Warenne's first grant for market and right to market dues [most likely from churchyard to Ockenden Lane]. |
| | Markets held on Tuesdays |
| | Fair on 8 and 9 September (Vigil Feast and Morrow of the Nativity of Saint Mary). |
| 1271 | Charter of Earl John Warenne hold market for: |

Friday | sale of grain et cetera

Fairs for two days:

Thursday Whitsun week

16 September | sale of horses, cattle, swine, sheep, goods,
ware and pedlary.

Lord of the Manor entitled to receive from every person exposing
goods for sale the sum of one penny (“show penny”), and one penny
from every person who breaks the soil for the reception of a stall or
booth or any other purpose connected with the rites of the fair (“pitch
penny”) collectively known as (“penny pitch and penny show”)
collected by the reeve or beadle of the Manor since.

Post Quia Emptores

After Quia Emptores, the manors of Bentley Park, Cuckfield
Clauditor, Haldleigh, Haywards, Marshalls, Pains, Trubweek and Tye
were substituted from the Manor of Cuckfield to the barons of their
respective manors.

1304 Richard Fitzalan becomes seventh Baron by right of inheritance.

1312 The day of the market was altered to Monday, and a fair granted for
the Vigil, Feast and Morrow of the Holy Trinity. Both fairs were held
in 1465.

1376 Richard Fitzalan becomes eight Baron by right of inheritance.

25 October 1415 St. Crispin’s Day [bonfire celebration, anniversary of Battle of
Agincourt, boys blacked-up asking for pennies, cobbler feast day
(shoemakers to give employees dinner in evening):

*If ever I Saint Crispin’s day forget
may my feet be never free from wet,
But ev’ry dirty street and lane pass through
Without one bit of sole to either shoe.*

[Brighton, 1780s]

1397	Thomas Mowbray becomes ninth Baron by right of inheritance.
1399	Thomas Mowbray becomes tenth Baron by right of inheritance.
1405	Elizabeth de Mowbray becomes eleventh Baroness by right of inheritance.
1425	John de Mowbray becomes twelfth Baron by right of inheritance.
1432	John Mowbray becomes thirteenth Baron by right of inheritance.
1461	John de Mowbray becomes fourteenth Baron by right of inheritance.
1476	Thomas Stanley becomes fifteenth Baron by right of inheritance.
1504	Thomas Stanley becomes sixteenth Baron by right of inheritance.
1521	Edward Stanley becomes seventeenth Baron by right of inheritance.
July 1521	Mr. Edmund Flower founds Cuckfield grammar school.
1529	Fr. William Spicer made further endowments for the grammar school 'after the form, order and usage used in the grammar school at Eton'.
1572	Henry Stanley becomes the eighteenth Baron by right of inheritance.
1575	Henry Bower becomes the nineteenth Baron by right of alienation.
1589	Henry Bower becomes the twentieth Baron by right of inheritance.
1606	Thomas Hendley becomes the twenty first Baron by right of inheritance.

- 1612 A third of the Manor of Tubweek is reattached to the Manor of Cuckfield.
- 1648 The Manor of Cuckfield Caludtior is reattached to the Manor of Cuckfield.
- 1656 Walter Hendley becomes the twenty second Baron by right of inheritance.
- 1662 The remaining two-thirds of the Manor of Trubweek and the Manor of Haywards are reattached to the Manor of Cuckfield.
- 1670 King Charles II renews the charter to hold a market on Fridays to Lord Hendley and five others for the benefit of inhabitants.
- 1675 Mary Clark (née Hendley) becomes the twenty third Baroness by right of inheritance.
- 1687 Charles Sergison becomes the twenty fourth Baron by right of alienation.
- 1697 The Manors of Bentley Park and Haldleigh are reattached to the Manor of Cuckfield.
- 1705 At some point pass this date, the Manor of Pains is reattached to the Manor of Cuckfield.
- 1732 Thomas Sergison (Warden) becomes the twenty fifth Baron by right of inheritance.
- 1766 Michael Sergison becomes the twenty sixth Baron by right of inheritance.

1784	Anne Sergison becomes the twenty seventh Baroness by right of inheritance.
1784	The Manor of Marshalls is reattached to the Manor of Cuckfield.
1792	There was a Friday market and fairs on Whit Thursday, 25 May, 16 September and 29 November (these had lapsed by 1888).
1806	Warden Sergison becomes the twenty eighth Baron by right of inheritance.
1811	Francis Sergison becomes the twenty ninth Baron by right of inheritance.
1811	At some point pass this date, the Manor of Tye is reattached to the Manor of Cuckfield.
1812	Anne Sergison becomes the thirtieth Baroness by right of inheritance.
1848	Warden Sergison becomes the thirty first Baron by right of inheritance.
1853	Warden Sergison's Estate Act 1853 Confirmed the settlement of House Sergison to the Manor in tail.
1858	Annual Inclosure Act 1858 grants permission for inclosure award for Muster Green.
1862	Muster Green inclosure award granted on 9 January 1862 to the Churchwardens and Overseers of the Poor of the Parish of Cuckfield; severing the common from manorial waste.

Inclosure award grants what is now Clair Park along with the land opposite the road to the west to the Lord of the Manor of Hayward and Trubweek; the former containing 72 acres and 8 patches and interest in all mines, minerals, stone and other substances under the same; in addition, granted the woodland to the south of Clair Park.

- 1867 Warden Sergison becomes the thirty second Baron by right of inheritance.
- 1868 The weekly stock market on Tuesdays is transferred to the village of Haywards Heath.
- 1888 Charles Sergison becomes the thirty third Baron by right of inheritance.
- 1900 Baron Sergison alienated Butler's Green and parts of Tyler's Green to Baron Alexander Keinwort of the Manor of Bolnore on 14 June 1900. [The Manor of Bolnore then alienated these parcels to Cuckfield Urban District Council (now Mid Sussex District Council) on 5 March 1947.]
- 1911 Prudence Sergison-Brooke becomes the thirty fourth Baroness by right of inheritance.
- 1915 Prudence Sergison-Brooke marries Bertram Sergison-Brooke who becomes the thirty fourth Baron by right of curtesy. They have one daughter: Patience Sergison-Brooke.
- 1918 Prudence Sergison-Brooke dies and Bertram Sergison-Brooke inherits the title by right of curtesy.
- 1923 Baron Sergison-Brooke marries Hilda Fenwick who becomes baroness consort. They have one son: Timothy Sergison-Brooke.

- 1926 Statutory declaration made by the Baron concerning his title to the manors of Cuckfield, Slaugham, Marshalls, Franklands and Leigh.
- 1967 House Sergison's settlement dissolves. Certificates and plans were produced relating to the sale of plots of land at Haywards Heath, Cuckfield, Slaugham, Clayton, Keymer and Hurstpierpoint as part of the Sergison settled estate. These included Cuckfield Park (including Old Mill Cottages), Beech Farm, Hoadsherf Farm, Upper Sparks Farm, Lower Sparks Farm, Slough Place, Slough Place Farm, Slough Green Cottages, Ansyte Farm, Court House Farm, Henmead Hall, Henmead Hall Cottages, Brook Street, High Bridge, West Cottage, East Cottage, 39, 40 and 41 Marshalls Terrace (with lands in Cuckfield and Ansty), Butlers Green House (with lands in Cuckfield and Haywards Heath), Steeple Cottage, Hatch Lane, Old Beech Farmhouse, cottages (called the Shanty, Springfield, Pondtail Cottage and Hoadsherf Cottage: all in Deaks Lane), Mackerell's Cottage, Paige's Wood, Nos. 42 and 43 Hatchgate Lane, Supermarket in the High Street and South Street (United Counties Stores), Bailiffs Cottage and Butlers (Antsyte).
- The title will have therefore fallen to The Honourable John Warden Brooke, but unless it was explicitly conveyed after his death S. 45 of the Administration of Estates Act 1925 will come into affect. This means the title will have fallen into abeyance. No conveyance of succession is known to have been brought about (even as an explicit ancillary to part of any estate). The Crown has not escheat the title nor the Manor.
- 1968 On the 25 March 1968, The Honourable John Warden Brooke alienated the manor house of Cuckfield Park from the Sergison estate with a list of easements, quasi easements, privileges, advantages and obligations (failing to mention any manorial incidents if at all).

- 1968 As part of the sale of the estate of the Bahamian trust settlement, Bedlam Cottage (Tylers Green, Cuckfield) was sold.
- 1982 Sale of dwelling house, known as Redlands, in Handcross and land opposite.
- 1987 On 5 March 1987, the second Viscount Brookeborough (John Warden Brooke) dies. No conveyance of the title is known to have come about.
- 2024 Christian Pitt makes a notorious claim of possession to the Manor in The Gazette (in the likelihood that the third Viscount Brookeborough failed to have the title conveyed from Baron Sergison Brooke to his father then to himself) becoming the thirty fifth Baron by right of occupancy, and public execution of its rights of government.
- 2025 In defence to a county common land and village greens application, Viscount Brookeborough states he acquired the title merely by virtue of inheriting ‘all property outside County Fermanagh’. This further proves the House Sergison family settlement was dissolved in 1967 and thus the laws in the Law of Property Act 1925 with respect to conveyancing and the Administration of Estates Act 1925 to succession apply. Further, see Pollock (3rd edn.) on rules of possession.

GOD SAVE THE KING

CHRISTIAN PITT

Saturday, 29 August 2026

Manor of Cuckfield

Sussex