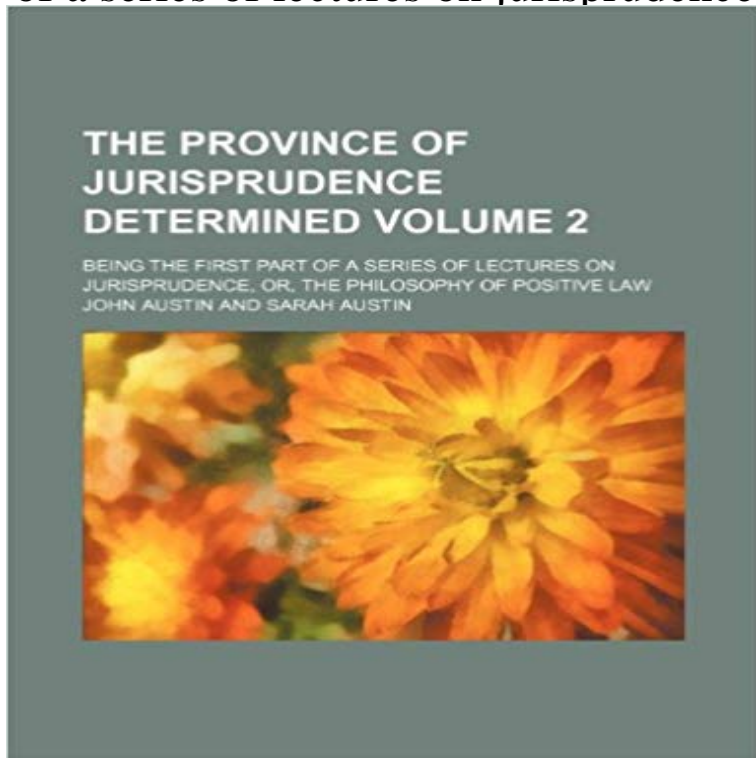


The province of jurisprudence determined Volume 2; being the first part of a series of lectures on jurisprudence, or, the philosophy of positive law



This historic book may have numerous typos and missing text. Purchasers can download a free scanned copy of the original book (without typos) from the publisher. Not indexed. Not illustrated. 1863 Excerpt: ...that if the sovereign merely described the custom, that description would not make it Law. The description, completion, and correction of positive morality, are as much an end for which political government is wanted, as the obtaining, by its establishment, a more cogent sanction. But the Sovereign makes it law, not by the mere description, but by the sanction with which he clothes it. LECTURE.XXXI. uipum-i Ju From the jus gentium of the older Roman Law, and from the jus gentium or naturale of the Classical Jurists, I shall advert to a jus naturale (a mirum jus naturale f) which I take the liberty of styling Ulpian Law of Nature. In two or three excerpts from Ulpian which are given in the beginning of the Pandects, and one of which also occurs at the beginning of Justinians Institutes, he opposes to that jus gentium which tallies with the law natural of the moderns, a certain jus naturale common to man and beast:-- Jus quod natura omnia animalia docuit. This last-mentioned jus naturale (which, as I shall shew hereafter, accords with an admired conceit of Hooker and Montesquieu) seems to have been taken by the good Ulpian from certain inept speculations of certain Stoic philosophers. Since it is peculiar to Ulpian, and since no attempt to apply. it occurs in the Pandects or Institutes, it can scarcely be considered the natural Law of the Romans, nor can it be./ fairly imputed to the body of the Classical Jurists: who (heaven knows) have enough to answer for, in that they adopted from the Greeks the other jus naturale, and were thus the remote authors of that modern Law of Nature which has so thoroughly perplexed and obscured the sciences of Jurisprudence and Ethics. (Pivd

voce.) Ulpian's *ius naturale* was the one to which I referred...

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