

Charles I., who, it will be remembered, came to the throne in 1625.

*Can the Maxim be Traced to the Influence of the Ancient Roman Law?*—But if we seek beyond the English law for sources of the maxim, we might possibly trace its origin to the form or variation *Impossibilium nulla obligatio est*, known to the ancient imperial Roman law. It may not, however, be recognized as a maxim under that name, since the term maxim was not used by those old jurists. But it appears as a mode of expression such as was usually designated as a rule or *Regula*.

We find, indeed, many illustrations of impossible stipulations or promises given by Justinian in his *Digest*, as well as some in his *Institutes* and in those of Gaius. Among these instances are those where a person stipulates that some thing shall be given him which in the nature of things, does not exist or cannot exist, as a freeman he believed to be a slave, a sacred or devoted spot he thought subject to man's law, or a fabled creature that cannot exist.

When, however, the expression under consideration is rendered by the words, "An impossibility creates no obligation," it is to be recalled that the word "obligation," as used by the Roman jurists, has an implication of a binding legal tie, or connecting element, such as it does not strictly have in English law.

The ancient Roman law likewise defined and dealt with impossible conditions. Justinian in his *Institutes* explains that if an impossible condition be annexed to a stipulation, the stipulation is of no avail.

It will thus be seen that the ancient Roman law dealt sufficiently and with enough conciseness of statement with impossibility to give plausibility, at least, to the suggestion that the influence of that law may have been felt in the framing of the maxim under consideration. A species of further support to this idea may be regarded as derivable from the fact that even those writers most inclined to minimize the influence of the Roman upon the English law, and to claim that such vogue as that law may, at one time, have had, was academic rather than