LAB

LAB, laques, à lax, i. e. Fraus.] A net, gin, or snare. Lit. Dict. LABEL, Appendix lemniscus.] Is a narrow slip of paper or parchment, affixed to a deed, writing, or writ, hanging at or out of the same; and an appending seal is called a Label. See title Deed.


LABORARIIS, Is an antient writ against persons refusing to serve and do labour, and who have no means of living; or against such as, having served in the winter, refuse to serve in the summer. Reg. Orig. 189.

LABOUR, Is the foundation of property. Bodily Labour, bestowed upon any subject which before lay in common to all men, is universally allowed to give the fairest and most reasonable title to an exclusive property therein. 2 Comm. 5.

LABOURERS, Conspiring together concerning their work or wages, shall forfeit 10l. for the first offence, 20l. for the second, &c. And if not paid, be set on the pillory. Stat. 2 & 3 Ed. 6. c. 15. See title Conspiracy.—Justices of peace and stewards of leets, &c. have power to hear and determine complaints relating to non-payment of Labourers’ wages. Stat. 4 Ed. 4. 1. Labourers taking work by the great, and leaving the same unfinished, unless for non-payment of wages, or where they are employed in the King’s service, &c. are to suffer one month’s imprisonment, and forfeit 5l. The wages of Labourers are, to be yearly assessed for every county by the Sheriff, and Justices of peace in the Easter sessions, and in corporation by the head officers, under penalties. Stat. 5 Eliz. c. 4. And the Sheriff is to cause the rates and assessments of wages to be proclaimed. 1 Jac 1. c. 6.

All persons fit for labour, shall be compelled to serve by the day in the time of hay or corn harvest; and Labourers in the harvest time may go to other counties, having testimonials. From the middle of March to the middle of September, Labourers are to work from five o’clock in the morning till seven or eight at night, being allowed two hours for breakfast and dinner, and half an hour for sleeping the three hot months; and all the rest of the year from twilight to twilight, except an hour and an half for breakfast and dinner, on pain of forfeiting 1d. for every hour absent. If any Labourer shall make an assault upon his master, he shall suffer and be punished as a servant making such assault. See stat. 5 Eliz. c. 4.

By stat. 12 Geo. 1. c. 34: 22 Geo. 2. c. 27. All contracts of Journeymen employed in any woollen, linen, silk, leather or iron, &c. manufactures for raising wages, lessening the hours of work, &c. are illegal, and the offenders shall be sent to the House of Correction for three months. See also 39, 40 G. 3. c. 106, and 43 G. 3. c. 86, and this Dict. tit. Conspiracy. The wages, &c. of journeymen tailors are by stat. 8 Geo. 3. c. 17, to be regulated and settled at the Quarter Sessions in London.

Justices of peace may hear and determine disputes concerning
the wages of servants and labourers, not exceeding 10s. Stat. 20 Geo. 2. c. 19.—Extended to the tinners in the stannaries, by stat. 27 Geo. 2. c. 6.—Justices may punish servants on complaint of the masters, stat. 20 Geo. 2. c. 19. § 2.—The stat. 20 Geo. 2. c. 19, shall extend to all servants employed in husbandry, though hired for less than a year, 31 Geo. 2. c. 11. § 3.—By stat. 6 Geo. 3. c. 25, artificers, labourers, and other persons absenting themselves from the service of their employers, before the expiration of the term contracted for, shall be punished by imprisonment for not less than one month, nor more than three. See further, titles Manufacturers; Poor; Servants; Apprentices.

LACE, See titles Manufacturers; Hawkers, &c.; Navigation Acts.

LACERTA, A fathom. Domeday.

LACHES, from the Fr. lascher, i. e. laxare; or lasche, ignavus.] Slackness or negligence; as it appears in Littleton, where Laches of entry means a neglect in the heir to enter. And probably it may be an old English word; for when we say there is Laches of entry, it is all one as if it were said, there is a Lack of entry; and in this signification it is used. Lit. 136. No Laches shall be adjudged in the heir within age; and, regularly, Laches shall not bar either infants or fem-coverts, in respect of entry or claim, to avoid descents; but Laches shall be accounted in them for non-performance of a condition annexed to the state of the land. Co. Lit. 146. See titles Infants; Heir, &c.

LACTA, A defect in the weight of money; whence is derived the word Lack. Du Frene.

LADA, Hath divers significations; 1st, from the Saxon lathian, to convene or assemble, it is taken for a Lath, or inferior court of justice. See title Lathe; Trithing-reve.—2dly, It is used for purgation by trial, from ladaein; and hence the lada simplex, and lada triplicex or lada plena, among the Saxons, mentioned in the laws of King Ethelred and K. Henry I.—3dly, Lada is applied to a lade or course of water; Camden uses water-lade or water-course: and Spelman says, that Lada is a canal to carry water from a wet ground; sometimes Lada signifies a broad way. Spelm. Gloss. Mon. Ang. tom. 1. p. 854.

LADE, Lode, i. e. The mouth of a river; from Sax. ladian, fur-gare, because the water is there clearer; from hence Cricklade, Lechlade, &c.

LADIES. For the order of trial of duchesses, countesses, and baronesses, for treason, when indicted thereof, see the antient statute 2 Hen. 4. c. 14; and this Dictionary, titles Peers; Treason.


LÆSE MAJESTATIS, CRIMEN. The crime of high treason. So denominated by Glanvil, l. 1. c. 2. See Treason.

LÆSÆFIDEI, Suits pro. The clergy, so early as the reign of King Stephen, attempted to turn their ecclesiastical courts into courts of equity, by entertaining suits pro lesione fidei, as a spiritual offence against conscience, in case of non-payment of debts, or any breach of civil contracts. But they were checked by the constitutions of Clarendon, 10 Hen. 2. c. 15. See this Dict. title Courts Ecclesiastical.

LÆTARE JERUSALEM. See Quadragesimalia.

LAFORDSWICK, Sax. hlaford, i. e. dominus, and swic, proditio;
infidelitas erga dominum.] A betraying one's lord or master. This word is found in King Canute's laws, c. 61. And in the laws of King Hen. 1. Leg. 1. c. 13.

LAGA, (lex) The Law, Magna Carta. Hence we deduce Sax-on-lage, Mercen-lage, Dune-lage, &c.

LAGAN, Goods sunk in the sea, from Sax. liggan cubare.] When mariners in danger of shipwreck cast goods out of the ship, and because they know they are heavy and sink, fasten a buoy or cork to them, that they may find and have them again, if the ship be lost, these goods are called lagan; and so long as they continue upon the sea, belong to the Lord Admiral; but if they are cast away upon the land, they are then a wreck, and belong to the lord entitiled to the same. 5 Co. Rep. 106. Lagan is used in old authorities to denote that right which the chief lord of the fee had to take goods cast on shore by the violence of the sea, &c. Bract. lib. 3. capi. 2. See this Dict. title Wreck; Flotsam.

LAGEDAYUM, Laghday, A law-day, or time of open court. Cowel, edit. 1727.

LAGEMAN, Legamannus; Legamannus, Spelm. Homo habens legem; homo legalis seu legitimus; such as we call now good men of the jury.] The word is frequently used in Domesday, and the laws of Edward the Confessor, c. 38. Sir Edw. Coke says, A lageman was he who had socam et sacam super homines suos, i. e. a jurisdiction over their persons and estates; of which opinion were Somner and Lambard, and that it signifies the Thanes, called afterwards Barons, who sat as judges to determine rights in courts of justice. In senatusconsulto de Monticulis Walliae, c. 3, it is said, Let twelve Lagemen, which Lambard renders Men of Law, viz. six English and six Welsh, do right and justice, &c. Blount.

LAGEN, lagena, Plea, lib. 2. capi. 8, 9.] In antient times it was a measure of six sextarii. Hence perhaps our flagon. The lieutenant of the Tower has the privilege to take unam lagenam vini, ante mar- lam et retro, of all wine ships that come up to the Thames. Sir Peter Leycester, in his Antiquities of Cheshire, interprets lagena vini, a bottle of wine.

LAGHDAY, or Lahday. See Lagedayum, Law-day: Laghman, See Lageman.

LAGHSLITE, LAGSLITE, LASHLITE. Sax. lag, lex & slite, ruptio.] A breaking or transgressing of the law; and sometimes the punishment inflicted for so doing. Leg. H. 1. c. 13.—Spelman, and this Dict. title Overhenissa.

LAGON. See Lagan. and 5 Co. 106.

LAIA, a broad way in a wood; the same with lada, which see. Mon. Ang. tom. 1. pag. 483.

LAIRWITE; LACHERWITE; LAGERDULM. From Sax. legan, concumbere, & withe, mulcta.] Pennovel multa ex ordinamento in adulterio & fornicatione; and the privilege of punishing adultery and fornication did antiently belong to the lords of some manors, in reference to their tenants. Plea, lib. 1. c. 47; 4 Inst. 206.

LAMMAS-DAY, The first of August, so called quasi lamb-mass; on which day the tenants that held land of the cathedral church of York (which is dedicated to St. Peter ad Vincula) were bound by their tenure to bring a live lamb into the church at high-mass. It is otherwise said to come from the Sax. hlaffmassae, viz. loof-mass, as
on that day the English made an offering of bread made with new wheat.

LAMPRAYS, see Fish.

LAMPS. None but British oil to be used for lamps in private houses, under penalty of 40s. 8 Ann. c. 9. § 18. See title Candles. By stat. 11 Geo. 3. c. 29, for paving and lighting London, the willfully breaking or extinguishing any lamp incurs the penalty of 20s. for each lamp or light destroyed or extinguished. See tit. London.

LANCASTER was erected into a county palatine, anno 50 Edw. III. and granted by the King to his son John for life, that he should have jura regalia, and a King-like power to pardon treasons, outlawries, &c. and make justices of peace and justices of assise within the said county, and all processes and indictments to be in his name. See this Dict. title Counties Palatine.

There is a seal for the county palatine and another for the Dutchy, i. e. such lands as lie out of the county palatine, and yet are part of the dutchy: for such there are, and the Dukes of Lancaster hold them, but not as counties palatine; for they had not jura regalia over those lands. 2 Lutw. 1236: 3 Sulk. 110, 111. See title Chancellor of the Dutchy. The statute 37 H. 8. c. 16, annexed lands to the dutchy of Lancaster, for the enlargement of it.—Fines levied before the justices of assise of Lancaster, of lands in the county palatine, shall be of equal force with those acknowledged before the justices in the Common Pleas. Stat. 37 H. 8. c. 19. Process against an outlawed person in the county palatine of Lancaster, is to be directed to the Chancellor of the dutchy, who shall thereupon issue like writs to the sheriff, &c. stat. 5 & 6 Edw. 6. c. 26. The statute 17 Car. 2, concerning causes of replevin shall be of force in the court of Common Pleas for the county palatine of Lancaster, stat. 19 Car. 2. c. 5.—By stat. 17 Geo. 2. c. 7, the Chancellor or Vice-Chancellor may by commission empower persons to take affidavits in any cause, &c. depending in the Chancery or Courts of Sessions, in any plea whatsoever, civil or criminal.—A quay to be made at Lancaster, stat. 23 Geo. 2. c. 12.—See the statutes 19 Geo. 3. c. 45: 27 Geo. 3. c. 34, enabling the Chancellor and Council of the Dutchy to sell fee-farm rents. By stat. 34 Geo. 3. c. 46, the Chancellor or Vice-Chancellor of the dutchy and county may authorize persons to take special bail in actions depending in the Court of Common Pleas of the said county.—The Justices of the said court to make rules as to justifying bail, &c.—By stat. 34 Geo. 3. c. 58, to prevent the removal of suits from the inferior Courts of the county into the said Court of Common Pleas, security is to be given by the defendants removing such suits for payment of the sum demanded, if recovered in the Court of Common Pleas.—See further, titles Counties Palatine; Durham.

LANCETI, Agricola quidam, sed ignota speciei.—A sort of servile tenants under the antient feudal system. See Splem. in v. Larcetia.

LAND, terra.] Signifies generally not only arable ground, meadow, pasture, woods, moors, waters, &c. but also messuages and houses; for in conveying the land, the buildings pass with it. Co. Lit. 4, 19. In a more restrained sense it is arable ground: and the land of every man is said in the law to be inclosed from that of others, though it lie in the open field; so that for any trespass therein, he shall have the writ quare clausum fretit, &c. Doct. & Stud. 3. In a
grant, land may extend to meadow, or pasture, &c. But in writs and pleadings, it signifies arable only. 1 Vent. 260.

Coke on Lit. lib. 1. cap. 2. sect. 14, says Terra est nomen generalissimum & comprehendet omnes species terre but properly terra dicitur a terrendo, quia vomere territ; and antiently it was written with a single r, and in that sense includes whatever may be plowed. The earth hath in law a great extent upwards, for cuius est solum ejus est usque ad celum. Co. 9 Reff. Alured's case. See 2 Comm. cc. 1, 2: and this Dict. title Hereditaments.

Where land shall be taken as money, or money as land, see title Chancery.

LANDA, a lawn or open field without wood. Cowell.

LANDBOC, (from the Saxon Land and Boc. Liber) Was a charter or deed whereby land was held. Spelme. Gloss.

LANDCHEAP, Saxon Land-ceap; from Ceafan, to buy and sell. An antient customary fine, paid at every alienation of land lying within some manor, or liberty of a borough. At Malden in Essex, there is to this day a custom called by the same name, that for certain houses and lands sold within that place, thirteen pence in every mark of the purchase-money shall be paid to the town; and this custom of land-cheap, they claim (inter alia) by a grant from the Bishop of London, made anno 5 H. 4.

LANDEA, A ditch in marshy lands to carry water into the sea. Du-Cange.

LANDEFRICUS, Lanfricus.] The lord of the soil, or the landlord; from Saxon land, and riga rector. Leg. Ethelred, c. 6.

LANDEGANDMAN, One of the inferior tenants of a manor. See Spelmam.

LAND-GABLE, A tax or rent issuing out of land, according to Domesday. Spelme says a penny for every house; the Welsh used pridgavel orlandgavel.

This Landgavel or Landgabel, in the register of Domesday, was a quit-rent for the scite of a house, or the land whereon it stood, the same with what we now call ground-rent. Domesday; in Lincoln.

LANDIMERS, Agrimensores, Measurers of land, so called of old; from the Sax. Gemæru, i.e. Terminus; and hence, we say Meers.

LANDIRECTA. In the Saxon times the duties which were laid upon all that held land, were termed Trinoda necessitas, viz. Expedition, burghbote and brighbote; which duties the Saxons did not call servitia: because they were not feodal, arising from the condition of the owners, but landirecta, rights that charged the very land, whoever did possess it. Spelm. of Feuds. See Trinoda Necessitas.

LANDLORD. He of whom lands or tenements are holden; and a Landlord may distrain on the lands of common right, for rent, services, &c. Co. Lit. 57, 205. In London, if a tenant commit felony, &c. whereby his goods and chattels become forfeit; the Landlord shall be paid his rent for two years, before all other debts except to the King, out of the goods found in the house. Priv. Lond. 75. See title London.

LANDLORD and TENANT, For the law chiefly relating to, see titles Distress; Lease; Rent; Replevin; Ejectment, &c.

LAND-MAN. Terricola. The terre-tenant.

LAND-TAX. A tax heretofore imposed in Great-Britain on lands and tenements (and on personal property,) by acts annually
LAND-TAX. 71
passed for that purpose. This and the malt-tax were considered as annual taxes imposed on the Subject; the other taxes being perma-

The assessment or valuation of estates hereafter mentioned, made in the year 1692, though by no means a perfect one, had this effect, that a supply of half a million sterling was equal to 1s. in the pound of the value of the estates given in. And according to this valuation, from the year 1693 to 1798, the land-tax continued an annual charge upon the Subject, above half the time at 4s. in the pound; sometimes at £s.; sometimes at 2s.; twice at 1s. (A. D. 1732 and 3); but without any total intermission.

By statute 38 G. 3. c. 60. this Tax, as imposed by the last annual act, 38 G. 3. c. 5. on Lands and Tenements in Great-Britain is made perpetual; being under that act 4s. in the pound.—A Duty of 4s. in the pound on Pensions, Offices, and personal Estates in England and Wales has since that time been annually granted, together with certain Duties on Malt, Tobacco, and Snuff, for the service of the current year from time to time: the first of these annual acts is 39 Geo. 3. c. 3.

By the act 38 G. 3. c. 60. the Land-Tax, so by that act made perpetual, is also made subject to Redemption or Purchase, either by the owner of the Land liable to the Tax, or on failure of Redemption by him within certain periods, then by any other person inclined to purchase: the sums paid for such Redemption or Purchase, are made applicable to the decrease of the National Debt: the purchase-money being in all cases so regulated by the price of the Funds as to produce an interest ¼th part more than the amount of the Land-Tax redeemed or purchased.—Two modes of Sale are allowed, the one by which the Land is actually exonerated from the Tax, and the other by which the Tax remains chargeable on the Land, but becomes payable to the person purchasing: the first of these is therefore properly Redemption; the latter Purchase.

The act 38 Geo. 3. c. 60. was amended by several subsequent acts; and by 42 G. 3. c. 116. (and acts still subsequent, viz. 45 G. 3. c. 77; 46 G. 3. c. 133.) more effectual Provisions are made for carrying the measure into effect. By all these several acts, powers are given to Corporations, Tenants in Tail, &c. to sell part of their estate for the purpose of exonerating the remainder from the Land-Tax.—By 46 G. 3. c. 133. small Livings and the lands of charitable Institutions may be exonerated gratis. By the execution of these acts many estates have been freed from the Tax, and thereby increased in their value; while the amount of the National Debt has from this source been considerably reduced.

See further this Dictionary; title National Debt.—Taxes.

The following particulars will not be thought unacceptable in this place.

The antient method of taxation was by escauge, which was on land held by knight service; and by talliage on the cities and boroughs; and it was made in this manner:—When the King wanted money for his wars, those tenants that did not attend him in person, paid him an aid, and the aid was assessed before the justices itinerant. It was generally a gift of all the inhabitants as a body corporate; if they did not give according to the wants of the Crown, the Justiciar inquired into their behaviour, and if there were any forfeitures of their char-
ters, quo warrantos came out, to seize their liberties into the King's hands. But Edw. I. found this way of taxing by escuage and tailliage to be very incomplete; because wars were drawn out into great length and expense; and therefore he formed into distinct bodies the tenants in capite that held great baronies, and these were called the barones majores, (the now Peers of Parliament) and the representatives of the barones minores and of several corporations, viz. the citizens and burgesses, of whom he made one body, which now composes the House of Commons. Gilb. Treat. of the Exchq. 192.

KING Edward I. confirmed to the people Magna Charta, which they had long contended for, and also the charter of the forests; and for Magna Charta they granted the King a fifteenth, by the name of Quindecimam partem omnium bonorum; so that instead of particular assessments in cities and boroughs, there was one universal assessment of the fifteenth of all their substance: this fifteenth seems to have been at first made out of the ecclesiastical tenth; for the Popes claimed the tenths of all benefices; it was therefore easy to know, by the Pope's collections of his tenths, what was the value of every ecclesiastical benefice, for the Pope's tenth was reckoned at 2s. per pound, and therefore the fifteenth must be 1s. 6d. The benefice consisted of the glebe and the tenth part of the township; therefore by the value of the benefice deducting the glebe, they knew the true value of the township, and how to set a fifteenth upon it; so that the fifteenth of the townships were certain sums, set by the King's taxors and collectors under the act of parliament; and commissions were granted to the taxors and collectors of them under the Great Seal; but in collecting of the fifteenths the sums only appeared in the books below. And the collectors of every township either returned their collection into the Exchequer, or else there were head collectors for the whole county, who returned it thither; there were likewise commissioners appointed, to supervise such taxation and collections. But about the time of Edw. III. there were certain established sums set upon every township; and so as the King's wants increased, they gave one, two, or three fifteenths. See Gilb. 193, 194.

We find in the times of Henry VIII. Queen Elizabeth, and King James I., that they raised both subsidies and fifteenths; this was, because the value of things increased, and therefore the old fifteenths were not according to the then true value of townships. And therefore they contrived that the subsidy should be raised by a pound-rate upon lands, and likewise a pound-rate upon goods; and we find in the subsidy 4 Cor. (which is said to be the greatest subsidy that ever was given, and which passed upon the Petition of Right) there was 4s. in the pound laid upon land, and 2s. 8d. upon goods; now 4s. upon land amounts to three fifteenths, and 2s. 8d. which was upon goods, to two fifteenths; but in this they had no regard to the old rates made in the tax-book of the several townships, otherwise than to discover the value of the lands; but a method is chalked out by the act of parliament to appoint commissioners, assessors, and collectors, in order to rate and get in the said subsidy. Ibid.

This was found very inconvenient, because the commissioners used to be favourable to their own county, therefore it was found necessary to revive so far the antient method, as to appoint a certain sum; and in the time of the civil war, the Long Parliament would not settle any persons to appoint commissioners, but the appoint-
ment of commissioners was made in the act itself: And in this new
manner of taxing, they appointed the sum to be levied on each par-
ticular county, in the act itself; as well as the commissioners' names,
and where to levy it; and the six associated counties, viz. London,
Middlesex, Kent, Sussex, Surrey, and Hertford, being not spoiled and
pillaged in the civil wars, and more hearty to the Parliament inter-
est, were taxed higher than any other counties in England. Gilb. 194,
195, 196.

After the Revolution, to support King William in his wars with
France, it was necessary to come into a land-tax; and from 1684 to
1693, the tax was made by a pound rate, like the former subsidies;
but when the people found that the war was like to hold, about 1693,
the tax was mightily lessened, every body being willing to ease his
neighbour; and then they came to lay a rate upon every county, and
the associating counties, being very zealous for the government in
the Revolution, and having taxed themselves higher than their neigh-
bours in 1693, it was argued that those counties were better able to
bear the tax, and therefore, in 1693, they laid the disproportioned
sums which became the standard of the land-tax. Ibid.

LAND-TENANT, He that possesses land let, or hath it in his
manual occupation. 14 Ed. 3. stat. 1. c. 3. See Tertenant.

LANGEMANNI, Lords of manors; the word is thus interpreted
by Sir Edward Coke. 1 Inst. 5. They are mentioned in Dominial.

LANGEOLUM, An under garment made of wool, formerly worn
by the monks, which reached down to their knees; so called because

LANGUAGE of Law Records, Pleadings, &c. See Pleading,
I. 3.

LANIS DE CRESCENTIA WALLIÆ TRADUCENDIS
ABSQUE CUSTUMA, &c. An ancient writ that lay to the customer
of a port, to permit one to pass wool without paying custom, he hav-
ing paid it before in Wales. Reg. Orig. 279.

LANTERIUM, The lantern, cupola, or top of a steeple. Cowell.

LANO NIGER, A sort of base coin, formerly current in this

LAPIS MARMORIUS, A marble stone about twelve feet long
and three feet broad, placed at the upper end of Westminster Hall,
where was likewise a marble chair erected on the middle thereof, in
which our Kings antiently sat at their coronation dinner, and at other
times the Lord Chancellor. Over this marble table are now erected
the Courts of Chancery and King's Bench. Orig. Juridical.

LAPIS PACIS, The same with Osculum facis. Du Fresne.

LAPSE, Latris. A slip or omission of a patron to present to a
church, within six months after it becomes void. See title Advow
son II.

LAPSED LEGACY. See title Legacy.

LARCENY.

Fr. Larrecin; Lat. Latrocinium.] A Theft or Felony of another's
goods, in his absence: It is usually divided into Grand Larceny and
Petit Larceny.

Grand Larceny is a felonious taking and carrying away the perso-
nal goods of another, above the value of 12d. not from the person, or
by night, in the house of the owner.

Petit Larceny is when the goods stolen do not exceed the value of
12d. It agrees with grand Larceny in all things except only the
value of goods; so that wherever any offence would be grand Lar-
cey, if the thing stolen was above 12d. value; it is petit Larceny, if it
be but of that value, or under. H. P. C. 60, 69.

Blackstone, with more immediate reference to its derivation, La-
trocinium, always spells the term thus, Larciny; and distinguishes
the offence into two sorts; simple Larciny, or plain theft unaccompa-
nied with any other atrocious circumstance; and mixed or compound
Larciny; which also includes in it the aggravation of a taking from
the house or person. 4 Comm. c. 17. As to that species of the latter
which consists in an open and violent taking from the person, see this
Dictionary, title Robbery.

The Offence of Larceny or Larciny then, (for either mode of spell-
ing may be adopted) shall be considered according to the following
arrangement:

I. 1. Of Simpke Larceny.
   2. Of its punishment.
II. Of mixed or compound Larceny.
   1. From the House.
   2. Privately from the Person.

I. 1. Simple Larceny is, "the felonious taking and carrying away
of the personal goods of another."

First, It must be a taking. This implies the consent of the owner
to be wanting. Therefore no delivery of the goods from the owner
to the offender, upon trust, can ground a Larceny. As if A. lends B.
a horse, and he rides away with him; or if one sends goods by a car-
rier, and he carries them away, these are no Larcenies. 1 Hal. P. C.
504. But if the carrier opens a bale or pack of goods, or pierces a
vessel of wine, and takes away part thereof, or if he carries it to the
place appointed, and afterwards takes away the whole, these are Lar-
cenies; for here the animus furandi is manifest, since in the first case
he had otherwise no inducement to open the goods, and in the sec-
ond the trust was determined, the delivery having taken its effect.
3 Inst. 107. But bare non-delivery shall not of course be intended to
arise from a felonious design; since that may happen from a
variety of other accidents. Neither by the common law was it Lar-
cey in any servant to run away with the goods committed to him to
keep, but only a breach of civil trust. But by statute 33 Hen. 6. c. 1,
the servants of persons deceased, accused of embezzling their mas-
ter's goods, may, by writ out of Chancery (issued by the advice of
the two Chief Justices and Chief Baron, or any two of them) and
proclamation made thereupon, be summoned to appear personally in
the Court of King's Bench, to answer their master's executors in
any civil suit for such goods, and shall on default of appearance, be
attainted of felony. And by stat. 21 Hen. 8. c. 7, if any servant em-
bezzled his master's goods to the value of 40s. it is made felony; ex-
cept in apprentices and servants under eighteen years old. See titles
Affrenice; Servant. But if he had not the possession, but only the
care and oversight of the goods, as the butler of plate, the shepherd
of sheep, and the like, the embezzling of them is felony and Larceny at common law. 1 Hal. P. C. 506; 3 Inst. 108. So if a guest robs his inn or tavern of a piece of plate, it is Larceny; for he hath not the possession delivered to him, but merely the use. 1 Hawk. P. C. c. 33. § 6. And so it is declared to be by stat. 3 & 4 W. & M. c. 9, if a lodger runs away with the goods from his ready-furnished lodgings. A wife cannot be guilty with her husband upon this statute, for she is under his coercion. O. B. 1783. No. 30. Nor without her husband, if it should appear the lodgings were let to him. O. B. 1761. No. 17. Nor even if it should appear that the lodgings were let jointly to both the husband and wife; for it shall be construed to be the act of the husband only. O. B. 1758. No. 105. The offender must be a lodger at the time the Larceny is committed. O. B. 1785. No. 74. The indictment must also set forth the name of the person by whom the lodgings were let. O. B. 1784. No. 747. And the property stolen must be such as may reasonably be construed the furniture of the sort of lodging taken. Leach's Hawk. P. C. 1. c. 33. § 13, in n.

If the Clerk of a Banker or Merchant has the care of money, or if he has access to it; for special and particular purposes, and, is sent to the bag or drawer for money, for the purpose of paying a bill, or if he is sent for the purpose of bringing money generally out of the bag or drawer; and, at the time he brings that money, he clandestinely and secretly takes out other money for his own use, he is as much guilty of a felony as if he had no permission or access to it whatever. So if a servant be sent to a library for one particular book, and he takes another, or being sent for a hat and sword, and he steals a cane; in all these cases it has been said the offenders are guilty of felony, for though the property is delivered, the possession of it remains in the true owners. O. B. 1784. p. 1995. 1304. So also where a person being left in an apartment pawns the furniture or other property under his care, with a felonious design to steal it, it is felony. O. B. 1785. p. 717; O. B. 1786: Leach's Hawk. P. C. 1. c. 33. § 6 in n.

Under some circumstances also a man may be guilty of felony in taking his own goods; as if he steals them from a pawnbroker, or any one to whom he hath delivered and entrusted them, with intent to charge such bailee with the value; or if he robs his own messenger on the road, with intent to charge the Hundred with the loss according to the statute of Winchester. Post. 123, 4. So where the owner delivers goods to a carrier, and afterwards secretly steals them from him with an intent to charge him for them, &c. because the carrier had a special property, and the possession for a time. 3 Inst. 110: Dall. 373; Pult. 126.

In further explanation of this part of the subject, the following is deserving of attention:

To make the crime of Larceny, there must be a felonious taking; or an intent of stealing the thing, when it comes first to the hands of the offender, at the very time of the receiving; 3 Inst. 107: Dall. 367. And if one intending to steal goods, gets possession of them by ejectment, replevin, or other process at law unduly obtained, by false oath, &c. it is a felonious taking. 3 Inst. 64: Kel. Rep. 43, 44. If a man hath possession of goods once lawfully, though he afterwards carry them away with an ill intention, it is no Larceny: where a tailor embezzles cloth delivered to him, to make a suit of clothes, &c.
it is not felony. *H. P. C.* 61: 5 Rep. 31. And if I lend a person my horse to go to a certain place, and he goes there, and then rides away with him, it is not Larceny; but remedy is to be had by action for the damage; though if one comes on pretence to buy a horse, and the owner gives the stranger leave to ride him, if he rides away with the horse, it is felony; for here an intention is implied. *Woods Inst.* 364, 365. In the above cases, there is a lawful possession by delivery, to extenuate the offence: but persons having the possession of goods by delivery, may, in some instances be guilty of felony, by taking away part thereof; as if a carrier open a pack, and take out a part of the goods; a miller, who has corn to grind, takes out part of the same, with an intent to steal it, &c. in which cases, the possession of part distinct from the whole, was gained by wrong, and not delivered by the owner; &c. *H. P. C.* 62: *S. P. C.* 25: 1 *Hawk. P. C.* c. 33. § 5.

To constitute Larceny the property must also be taken from the possession of the owner; therefore, to state a case more at large which has already been repeatedly alluded to, where A. intending to go a distant journey, hires a horse fairly and *bona fide* for that purpose, and evidences the truth of such intention by actually proceeding on his way, and afterwards rides off with the horse, it is no theft; because the felonious design was hatched subsequent to the delivery, and the delivery having been obtained without fraud or design, the owner parted with his possession as well as his property. *O. B.* 1784. *p.* 1294; and thereby gave to A. dominion over the horse; upon trust, that he would return him when the journey was performed. *O. B.* 1786. *p.* 333, 4. But if the delivery of property be obtained with a preconcerted design to steal the thing delivered, although the owner, in this case, parts with the thing itself, he still retains in law the constructive possession of it; therefore, where a man, having feloniously obtained the delivery of a bill of exchange under the fraudulent and delusive pretence of discounting it, converted it to his own use, and it appearing upon the evidence that the owner never meant to part with possession, it was held to be felony. *O. B.* 1784. *p.* 294. So also where a horse was obtained with the same design, upon pretence of trying its paces. *O. B.* 1779. *p.* 363; *O. B.* 1784. *p.* 293. So also to obtain the delivery of money, with design feloniously to take it away, under the false pretence of having found a diamond ring of great value, has been determined by nine judges to be a taking from the possession of the owner, and consequently felony. *O. B.* 1785. *p.* 160. So also to obtain the delivery of goods under the pretence of purchasing them, and then to run away with them. *Raym.* 276. And in general where the delivery of the property is made for a certain, special, and particular purpose, the possession is still supposed to reside, un parted with, in the first proprietor. Therefore, where a master delivers goods to his servant to carry to a customer, but instead of so doing he converts them on his way to his own use, it is a felonious taking; for the master had a right to countermand the delivery of them, and therefore the possession remained in him at the time of the conversion. *O. B.* 1782. No. 375: *O. B.* 1783. No. 28. So also if a watchmaker steals a watch, delivered to him to clean. *O. B.* 1779. No. 83. Or if one steals clothes delivered for the purpose of being washed. *O. B.* 1758. No. 18. Or goods in a chest delivered with a key for safe custody. *O. B.* 1770. No. 83. Or guineas delivered for the purpose of being changed into half guineas.
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O. B. 1778. No. 52. Or a watch delivered for the purpose of being pawned. O. B. 1784. No. 613. In all these instances the goods taken have been thought to remain in the possession of the proprietor, and the taking of them away held to be felony. Leach's Hawk. P. C. c. 32. § 5, fn n.

If one servant delivers goods to another servant, this is a delivery by the master; yet if the master or another servant delivers a bond, or cattle to sell, and the servant goes away with the bond, and receives the money thereon due, or receives the money for the cattle sold, and goes away with the same, this is no felony or Larceny within the stat. 21 Hen. 8. c. 7: Dall. 388: H. P. C. 62: 3 Inst. 105. So if a servant receives his master's rents; for the master did not deliver the money to the servant, and it must be of things delivered to keep: and if goods delivered to the servant to keep, are under 40s. value, and he goes away with them, this is only a breach of trust, by reason of the delivery; but if the goods were not delivered to him, it is felony and Larceny to go away with or embezzle them, though under the value of 40s. &c. Dall. 369. See title Servant.

A man puts a child of seven years old to take goods and bring them to him, and he carries them away; the child is not guilty by reason of his infancy, yet it is Larceny in the other. 1 Hale, P. C. 514.

If a man reduced to extreme necessity (not owing to his own unthriftiness) steals victuals merely to satisfy his present hunger, and keep him from starving; by our antient books, this is neither felony nor Larceny. 1 Hawk. P. C. c. 33. § 20.

It is true a judge ought to be tender in such cases, and use much discretion and moderation. 1 Hale 565. But it seems to be an unwarranted doctrine borrowed from the notions of Civilians; at least it is now antiquated, the law of England admitting no such excuse at present; it being in the power of the Crown to pardon the offenders; and the laws therefore not lying under the necessity of being explained away, as is the case in Democracies, where no such power of pardoning exists. See 4 Comm. 31: 1 Hale, 54.

Secondly, There must not only be taking, but a carrying away; cepit et asportavit, was the old law Latin. A bare removal from the place in which he found the goods, though the thief does not quite make off with them, is a sufficient asportation or carrying away. As if a man be leading another's horse out of a close, and be apprehended in the fact, or if a guest, stealing goods out of an inn, has removed them from his chamber down stairs, these have been adjudged sufficient carryings away to constitute a Larceny. 3 Inst. 108, 109. Or if a thief, intending to steal plate, takes it out of a chest in which it was, and lays it down upon the floor, but is surprised before he can make his escape with it, this is Larceny. 1 Hawk. P. C. c. 33. § 18.

A man was detected in taking the contents of a bale of goods in a waggon. It appeared that the bale laid horizontally, and that he had set it on its end; but as it had not been removed from the shirt, this was held upon a case reserved, not to be a sufficient carrying away. But where a man with a felonious intention had removed goods from the head to the tail of a waggon, it was held a sufficient removal to constitute a carrying away. O. B. 1784, p. 734. So a diamond ear-ring snatched from a lady's ear, but lodging in the curls of her
hair, and not taken by the thief, was held to be sufficient asporation.
O. B. 1784. No. 537: Leach's Hawk. P. C. c. 33. § 18. in n.

ThirL, This taking and carrying away, must also be felonious;
that is, done animo furandi. This requisite, besides excusing those who
labour under incapacities of mind or will, indemnifies also mere
trespassers, and other petty offenders. As if a servant takes his mas-
ter's horse, without his knowledge and brings him home again; if a
neighbour takes another's plough that is left in the field, and uses it
upon his own land, and then returns it; if, under colour of arrear of
rent where none is due, one distrain another's cattle or seize them;
all these are misdemeanors and trespasses, but no felonies. 1 Hal.
P. C. 509. The ordinary discovery of a felonious intent, is where the
party doth it clandestinely; or, being charged with the fact, denies
it; but this is by no means the only criterion of criminality, for in
cases that may amount to Larceny, the variety of circumstances is so
great, and the complications thereof so mingled, that it is impos-
sible to recount all those which may evidence a felonious intent, or
animum furandi; wherefore they must be left to the due and atten-
tive consideration of the Court and Jury.

Fourthly, This felonious taking and carrying away must be of the
personal goods of another; for if they are things real, or savour of the
realty, Larceny at the common law cannot be committed of them.
Land~ tenements, and hereditaments (either corporeal or incorpo-
real) cannot, in their nature, be taken and carried away. And of things
likewise that adhere to the freehold, as corn, grass, trees, and the
like, or lead upon a house, no Larceny could be committed by the
rules of the common law; but the severance of them was, and in ma-
ny things is still, merely a trespass; which depended on a subtlety in
the legal notions of our ancestors. These things are parcel of the
real estate, and therefore, while they continued so, could not by any
possibility be the subject of theft, being absolutely fixed and immove-
able. And if they were severed by violence so as to be changed
into moveables; and at the same time by one and the same continued
act, carried off by the person who severed them; they could never
be said to be taken from the proprietor in this their newly acquired
state of mobility, (which is essential to the nature of Larceny,) being
never, as such, in the actual or constructive possession of any one
but of him who committed the trespass. He could not, in strictness,
be said to have taken what at that time were the personal goods of
another, since the very act of taking was what turned them into per-
sonal goods. But if the thief sever them at one time, whereby the
trespass is completed, and they are converted into personal chattels,
in the constructive possession of him on whose soil they are left or
laid; and come again at another time, when they are so turned into
personality, and takes them away, it is Larceny; and so it is, if the
owner, or any one else, has severed them. 3 Inst. 109: 1 Hal. P. C. 510.
See 8 Rep. 33: Dalt. 372. This question is now, however, very much
put at rest by the following statute. By stat. 4 Geo. 2. c. 32, to steal or
rip, cut or break, with intent to steal, any lead, or iron bar, rail, gate,
or palisado, fixed to a dwelling-house, or out-house, or in any court
or garden thereunto belonging, or to any other building; is made fe-
lony, liable to transportation for seven years;—to steal, damage, or
destroy underwood or hedges, and the like; to rob orchards or gar-
dens of fruit growing therein; to steal or otherwise destroy any tur-
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Larceny, cabbages, farsnifs, pease, or carrots, or the roots of madder when growing, are all punishable criminally by whipping, small fines, imprisonment, and satisfaction to the party wronged according to the nature of the offence. See stats. 43 Eliz. c. 7: 15 Car. 2. c. 2: 31 Geo. 2. c. 35: 6 Geo. 3. c. 48: 9 Geo. 3. c. 41: 13 Geo. 3. c. 32. Moreover, the stealing by night of any trees, or of any roots, shrubs, or plants, to the value of $2. is, by stat. 6 Geo. 3. c. 36, made felony in the principals, aiders, and abettors, and in the purchasers thereof, knowing the same to be stolen—By stats. 6 Geo. 3. c. 48: 13 Geo. 3. c. 35, the stealing any timber trees, therein specified, (oak, beech, chestnut, walnut, ash, elm, cedar, fir, asp, lime, sycamore, birch, poplar, alder, larch, maple, and hornbeam,) and of any root, shrub, or plant, by day or night, is liable to pecuniary penalties for the two first offences, and for the third is constituted a felony, liable to transportation for seven years. Stealing ore also out of mines is no Larceny, upon the principle of adherence to the freehold, with an exception only to mines of black lead: the stealing of ore out of which, or entering the same with intent to steal, is felony, punishable with imprisonment and whipping, or transportation not exceeding seven years; and to escape from such imprisonment, or return from such transportation, is felony without benefit of clergy, by stat. 25 Geo. 2. c. 10.—Upon nearly the same principles the stealing of writings relating to a real estate is no felony, but a trespass, because they concern the land: or (according to the technical language of the law) savour of the reality; and are considered as part of it, so that they descend to the heir, together with the land which they concern. 1 Hal. P. C. 510: Stra. 1137.

Bonds, Bills, and Notes, which concern mere choses in action, were held also at the common law not to be such goods whereof Larceny might be committed; being of no intrinsic value, and not importing any property in possession of the person from whom they are taken. 8 Reft. 33. But by stat. 2 Geo. 2. c. 25, they are now put upon the same footing with respect to Larcenies, as the money they were meant to secure. See also the stats. 15 Geo. 2. c. 13: 24 Geo. 2. c. 11: 5 Geo. 3. c. 25: 7 Geo. 3. c. 50. which make embezzlements by the servants of the Bank, South-Sea Company, and Post Office, capital felonies. See those titles.

Larceny also could not at common law be committed of treasure-trove, or wrecks, waifs, estrays, &c. till seized by the King, or him who hath the franchise: for till such seizure, no one hath a determinate property therein. See Dall. 370: 3 Inst. 208: H. P. C. 67.—But by stat. 26 Geo. 2. c. 19, plundering or stealing from any ship in distress (whether wreck or no wreck) is felony without benefit of clergy.

Larceny cannot also be committed of such animals, in which there is no property either absolute or qualified, as of beasts that are farse naturae, and unreclaimed, such as deer, hares, and conies, in a forest, chase, or warren; fish in an open river or pond; wild fowls at their natural liberty. 1 Hal. P. C. 511: Foss. 366. But if they are reclaimed and confined, and may serve for food, it is otherwise, even at common law: for of deer so inclosed in a park that they may be taken at pleasure, fish in a trunk, and pheasants or partridges in a mew, Larceny may be committed. 1 Hawk. P. C. c. 33. § 26: 1 Hal. P. C. 511: And see the stat. 9 Geo. 1. c. 22, in this Dict. titles, Black-
Act; Hunting: as also stat. 16 Geo. 3. c. 30, under the title Deer Stealers; and stat. 5 Geo. 3. c. 14, under title Fish. Stealing Hawks in disobedience to the rules prescribed by the stat. 37 Edw. 3. c. 19, is also felony. 3 Inst. 98. It is also said that, if swans be lawfully marked, it is felony to steal them, though at large in a public river; and that it is likewise felony to steal them, though unmarked, if in any private river or pond: otherwise it is only a trespass. Dall. Jus. c. 156. But, of all valuable domestic animals, as horses and other beasts of draught, and of all animals domestica nature, which serve for food, as neat or other cattle, swine, poultry, and the like, and of their fruit and produce, taken from them while living, as milk or wool, Larceny may be committed. Dall. 21: Crompt. 36: 1 Hawk. P. C. c. 33. § 28: 1 Hal. P. C. 507: The King v. Martin by all the Judges P. 17 Geo. 3. And also of the flesh of such as are either domestica or serotina nature, when killed. 1 Hal. P. C. 511. As to those animals which do not serve for food, and which, therefore the law holds to have no intrinsic value, as dogs of all sorts, and other creatures kept for whim and pleasure, though a man may have a base property therein, and maintain a civil action for the loss of them, yet they are not of such estimation, as that the crime of stealing them amounts to Larceny. 1 Hal. P. C. 512. But by stat. 10 Geo. 3. c. 18, very high pecuniary penalties, or a long imprisonment and whipping in their stead, may be inflicted by two Justices of the peace, on such as steal, or knowingly harbour a stolen dog, or have in their custody the skin of a dog that has been stolen.

Notwithstanding, however, that no Larceny can be committed unless there be some property in the thing taken, and an owner, yet, if the owner be unknown, provided there be a property, it is Larceny to steal it; and an indictment will lie for the Larceny of the goods of a person unknown. 1 Hal. P. C. 512. This is the case of stealing a shroud out of a grave, which is the property of those, whoever they were, that buried the deceased; but stealing the corpse itself, which has no owner, (though a matter of great indecency,) was no felony, unless some of the grave-clothes were stolen with it. It was however punishable by indictment as a misdemeanor, even though the body were taken for the improvement of the science of anatomy; it being a practice contrary to common decency, and shocking to the general sentiments and feelings of mankind. See 1 Term Rep. 733; and further this Dictionary, title Robbery.

Where a person finds the goods of another that are lost, and converts them to his own use, it is no Larceny. H. P. C. 61. But it seems that in some extraordinary cases, the law will rather feign a property, where in strictness there is none, than suffer an offender to escape justice. 1 Hawk. P. C. c. 33. § 29.

It is said, that a property must be proved in somebody at the trial, or it shall be presumed in the prisoner from his plea of not guilty. 2 Hale, P. C. 290: 8 Mod. 249. But in a case where one Hickman was indicted for stealing lead from Hendon church, which was laid to be the property, 1st, of the Vicar; 2dly, of the Churchwardens; 3dly, of the Inhabitants and Parishioners. The property being fixed to the freehold, it was doubted whether it could be the subject of Larceny; and if it could, whether the property resided as laid in any of the counts in the indictment. The Judges were of opinion, 1st, that "a church" is included within these general words.
of the act, (4 Geo. 2. c. 32.) "or any other building whatsoever." 2dly, That the act having made the offence to consist in "stealing from any dwelling-house or other building, &c." the charge in the indictment; that it was stole from Hendon church was alone a certain and sufficient description of the offence to support the indictment; that the residence of the property was immaterial, and that the conviction was proper upon the first count. O. B. 1785. p. 782: Leach's Hawk. P. C. 1. c. 38. Aift. 1. § 13. in n.

2. Many learned and scrupulous men have questioned the propriety, if not lawfulness, of inflicting capital punishment for simple theft. The natural punishment for injuries to property seems to be the loss of the offender's own property; and might be universally the case, were all men's fortunes equal. But as those who have no property themselves are generally the most ready to attack the property of others, it has been found necessary, instead of a pecuniary, to substitute a corporal punishment.

Our antient Saxon laws nominally punished theft with death, if above the value of twelve pence: but the criminal was permitted to redeem his life by a pecuniary ransom; but in the ninth year of Henry 1. this power of redemption was taken away, and all persons guilty of Larceny above the value of 12d. were directed to be hanged; which law continues in force to this day. 1 Hal, P. C. 12: 3 Inst. 53. For though the inferior species of theft, or petit Larceny, is only punished by imprisonment or whipping at common law. 3 Inst. 218: or by stat. 4 Geo. 1. c. 11, may be punished with transportation for seven years, (as was also expressly directed in the case of the Plate-glass Company, stat. 13 Geo. 3. c. 38,) yet the punishment of grand Larceny, or the stealing above the value of 12d. (which sum was the standard in the time of King Athelstan,) is at common law regularly death; which, considering the great intermediate alteration in the price or denomination of money, seems at present a very rigorous constitution.—See Reeve's Hist. English Law, that the first instance where the limit of petit Larceny is distinctly marked, is in the stat. Westm. 1. (3 Ed. 1.) c. 15.

It has been held, that if two persons steal goods to the amount of 13d. it is Grand Larceny in both; and if one, at different times, steals divers parcels of goods from the same person, which together exceed the value of 12d. they may be put together in one indictment, and the offender found guilty of grand Larceny. H. P. C. 70: Pult. 125: 3 Inst. 109: Hetl. Rep. 66. But this is very seldom done; on the contrary, the mercy of Juries will often make them bring in Larceny to be under the value of 12d. when it is really of much greater value; but this, though evidently justifiable and proper, when it only reduces the present nominal value of money to the antient standard, is otherwise a kind of pious perjury. 2 Inst. 189. And it is now settled that the value of the property stolen, must not only be in the whole of such an amount as the law requires to constitute a capital offence; but the stealing must be to that amount at one and the same particular time. For the law will not permit things stolen at different times, which are, in fact, different acts of stealing, to be added together; and as no number of petit Larcenies will amount to a grand Larceny, so no number of grand Larcenies will amount to a capital offence. O. B. 1784. p. 206. It is likewise true, that by the merciful extensions of the benefit of
clergy by our modern statute law, a person who commits a simple
Larceny to the value of 13d. (or thirteen hundred pounds), though
guilty of a capital offence, shall be excused the pains of death; but
this is only for the first offence. And in many cases of simple Lar-
ceny, the benefit of clergy is taken away by statute; as from horse-
stealing, in the principals and accessories, both before and after the
by great and notorious thieves in Northumberland and Cumberland.
Stat. 18 Car. 2. c. 3. Taking woollen cloth from off the tenters; or
linens, fustians, callicoes, or cotton goods from the place of manu-
ufacture; which extends, in the last case, to aiders, assisters, procu-
ners, buyers, and receivers. See Stats. 22 C. 2. c. 5: 15 Geo. 2. c. 27:
18 Geo. 2. c. 27. Feloniously driving away, or otherwise stealing
one or more sheep or other cattle specified, or killing them with
intent to steal the whole or any part of the carcase, or aiding or
assisting therein. Stats. 14 Geo. 2. c. 6: 15 Geo. 2. c. 34. Thefts on
navigable rivers above the value of 40s. or being present, aiding, or
assisting thereat. Stat. 24 Geo. 2. c. 45.—Plundering vessels in
distress, or that have suffered shipwreck. Stats. 12 An st. 2. c. 18:
26 Geo. 2. c. 19. Stealing letters sent by post.—Stat. 7 Geo. 3. c. 50:
42 Geo. 3. c. 81.—Also stealing deer, fish, hares, and conies, under
the peculiar circumstances mentioned in the Waltham Black-Act.
Stat. 9 Geo. 1. c. 22. Which additional severity is owing to the great
malice and mischief of the theft in some of these instances; and, in
others, to the difficulties men would otherwise be under to preserve
those goods, which are so easily carried off.—But in all these cases,
where benefit of clergy is excluded, it seems that the Larceny must
exceed the value of 12d. See 4 Comm. c. 17. p. 241. in n. and this
Dict. title Felony.

An acquittal of Larceny in one county, may be pleaded in a bar
of a subsequent prosecution for the same stealing in another coun-
ty: and an averment that the offences in both indictments are the
same, may be made out by witnesses, or inquest of office, without
putting it to trial by jury; though that of later years hath been the
usual method. 2 Hawk. P. C. c. 35. § 4. But it is no plea in appeal
of Larceny, that the defendant hath been found not guilty in an ac-
tion of trespass brought against him by the same plaintiff for the
same goods; for Larceny and trespass are entirely different; and a
bar in an action of an inferior nature, will not bar another of a su-
perior. 2 Hawk. P. C. c. 35. § 5. If a person be indicted for felony
or Larceny generally, and upon the evidence it appears that the fact
is but a bare trespass, he cannot be found guilty, and have judgment
on the trespass, but ought to be indicted anew; though it may be
otherwise where the jury find a special verdict, or when the fact is specially laid, &c. In trespass where the taking is felonious, no
verdict ought to be given, unless the defendant hath before been
tried for the felony. 2 Hawk. P. C. c. 47. § 6. All felony includes
trespass, so that if the party be guilty of no trespass in taking the
goods, he cannot be guilty of felony or Larceny in carrying them
away; and in every indictment of Larceny, there must be the words
felonié cefit et asportavit, &c. H. P. C. 61. 1 Hawk. P. C. c. 33.
§ 2.

The stats. 4 Geo. 1. c. 11: 6 Geo. 1. c. 23, empower the Judges,
on conviction for grand or petit Larceny, (except the case of buying
Larceny II, 1. 2.

or receiving of stolen goods, knowing them to be such,) to transport the offenders, where they are entitled to benefit of clergy; or where being excluded clergy, they are pardoned on condition of transportation. See titles Felony; Clergy; Transportation.

There are no accessories in petit Larceny, therefore if two be indicted, one for privately stealing from the person a handkerchief value 12d. and another for receiving it, and the principal be found guilty value 10d. only, the accessory ought to be discharged. Post. 73. See this Dictionary; title Accessory.

II. 1. Larceny from the House, though it seems to have a higher degree of guilt than simple Larceny, yet is not at all distinguished from the other at common law; unless where it is accompanied with the circumstance of breaking the house by night; and then it falls under another description, viz. that of Burglary. See that title. But now, by several acts of Parliament, the benefit of clergy is taken from Larcenies committed in a house in almost every instance. The multiplicity of the general acts is apt to create confusion; but upon comparing them diligently we may collect, that the benefit of clergy is denied upon the following domestic aggravations of Larceny, viz. — First, in Larcenies above the value of 12d. committed, 1st. In a church or chapel with or without violence or breaking the same. Stats. 23 Hen. 8. c. 1: 1 Ed. 6. c. 12: 1 Hal. P. C. 518: and see stats. 25 Hen. 8. c. 3: 5 & 6 Ed. 6. c. 9, 10.—2d. In a booth or tent, in a market or fair, in the day time or in the night, by violence or breaking the same; the owner or some of his family being therein. Stats. 5 & 6 E. 6. c. 9: 1 Hal. P. C. 522.—3d. By robbing a dwelling-house in the day-time (which robbing implies a breaking), any person being therein. Stat. 3 & 4 W. & M. c. 9.—4th. By the same statute, and stat. 23 H. 8. c. 1. In a dwelling-house by day or by night, without breaking the same, any person being therein and put in fear which amounts in law to a robbery: and in both these last cases the accessory before the fact is also excluded his clergy.—Secondly, in Larcenies to the value of 5s. committed, 1st. By breaking any dwelling-house, or any out-house, shop, or warehouse thereunto belonging, in the day-time, although no person be therein; which also now extends to aiders, abettors, and accessories, before the fact. Stat. 39 Eliz. c. 15: See also stat. 3 & 4 W. & M. c. 9: Hale, 508, 522: Kely. 31.—2d. By privately stealing goods, wares, or merchandize in any shop, warehouse, coach-house, or stable, by day or by night, though the same be not broken open, and though no person be therein; which likewise extends to such as assist, hire, or command the offence to be committed. Stat. 10 & 11 W. 3. c. 23: See Post. 78.—Lastly, in Larcenies to the value of 40s. from a dwelling-house, or its out-houses, although the same be not broken, and whether any person be therein or no, unless committed against their masters by apprentices under the age of fifteen: This also extends to those who aid or assist in the commission of any such offence. Stat. 12 Ann. stat. 1. c. 7.

2. The offence of privately stealing from a man's person, as by picking his pocket, or the like, privily without his knowledge, was debarred the benefit of clergy, so early as by stat. 8 Eliz. c. 4. But then it must be such a Larceny as stands in need of benefit of clergy; viz. of above the value of 12d. else the offender shall not have
judgment of death: for the statute creates no new offence; but only prevents the prisoner from praying the benefit of clergy, and leaves him to the regular judgment of the antient law. This severity seems to be owing to the case with which such offences are committed, the difficulty of guarding against them; and the boldness with which they were practised (even in the Queen's court and presence) at the time when this statute was made: besides that it is an infringement of property, in the manual occupation or corporal possession of the owner, which was an offence even in a state of nature. 4 Comm. c. 17.

LARDAR1UM, The larder, or place where the lard and meat were kept. Paroch. Antig. p. 496.

LARDING-MONEY. In the manor of Bradford in the county of Wilts, the tenants pay to their lord a small yearly rent by this name; which is said to be for liberty to feed their hogs with the masts of the lord's woods, the fat of a hog being called lard: Or it may be a commutation for some customary service of carrying salt or meat to the lord's larder. This was called lardarium in old charters; et decimum lardarium de haga. Mon. Ang. tom. 1. p. 521.

LARONS, Fr.] Thieves; mentioned in the statute 18 Ed. 2, for view of frank-pledge.

LASTINUS, Often occurs in Walsingham, and signifies an assassin or murderer. Anne 1271.

LAST, Sax. lcestan, l. e. onus, Fr. lest.] Denotes a burden in general, and particularly a certain weight or measure of fish, corn, wool, leather, pitch, &c. As a last of white herrings, is twelve barrels, of red herrings, twenty cades or thousand, and of pilchards, ten thousand; of corn, ten quarters, and in some parts of England twenty-one quarters; of wool, twelve sacks; of leather, twenty sickers, or ten score; of hides or skins, twelve dozen; of pitch, tar, or ashes, fourteen barrels; of gunpowder, twenty-four firkins, weighing a hundred pound each, &c. See Stats. 32 Hen. 8. c. 14: 1 Jac. 1. c. 33: 15 Car. 1. c. 7: and this Dictionary, title Weights & Measures.

LAST-COURT, In the Marshes of Kent, is a court held by the twenty-four jurats, and summoned by the bailiffs; wherein orders are made to lay and levy taxes, impose penalties, &c. for the preservation of the said marshes. Hist. of Imbanking and Draining, f. 54.

LASTAGE, lastagium.] A custom exacted in some fairs and markets, to carry things bought where one will, by the interpretation of Rastal: But it is more accurately taken for the ballast or lading of a ship. Lastage is also defined to be that custom which is paid for wares sold by the last; as herrings, pitch, &c.

LASTAGE AND BALASTAGE. See Ballast.

LAST HEIR, Ultimus hares.] He to whom land comes by escheat for want of lawful heirs; that is, in some cases the Lord of whom they held, but in others the King. Bract. lib. 7. c. 17. See this Dictionary, titles Descent; Escheat; Heir; Tenure.

LATERA, Sides-men, companions, assistants. Cowell.
LATITAT. 85

LATERARE, To lie side-ways in opposition to lying end-ways; used in the description of lands. Chart. Antiq.

LATHE, LETHE, LEID, or LETHIE, Letum, Leda, Sax. lathe.] A great part of a county, containing three or four hundreds, or wapentakes; as it is used in Kent and Sussex, in the latter of which is called a rape. 1 Comm. 116: Leg. Ed. Confess. c. 55: Pat. 1. H. 4. par. 8. vii. 8: See Trithing.

LATHREVE, LEDGREVE, or TRITHINGREVE, The Officer under the Saxon government who had authority over that division called a Lathe. See Trithingreve.

LATIMER, Is used by Sir Edward Coke for an interpreter, 2 Inst. 515. It seems that the word is mistaken, and should be Latiner, because heretofore he that understood Latin, which in the time of the Romans was the prevailing language, might be a good interpreter. Camden agrees, that it signifies a Frenchman or interpreter, and says the word is used in an old inquisition. Britan. fol. 598. It may be derived or corrupted from the Fr. latiner, q. d. latiner. Cowell.

LATIN. There are three sorts of Latin. 1. Good Latin, allowed by grammarians and lawyers. 2. False or incongruous Latin, which in times past would abate original writs; though not make void any judicial writ, declaration, or plea, &c. And 3. Words of Art, known only to the Sages of the law, and not to grammarians, called Lawyers' Latin. 1 Lil. Abr. 146, 147: See Stat. 36 Ed. 3. c. 15; which directed all pleas, &c. to be debated in English and recorded in Latin; but now, by Stats. 4 Geo. 2. c. 26: 6 Geo. 2. c. 14, the records and proceedings are to be in English. Formerly the use of a word not Latin at all, or not so in the sense in which used, might in many cases be helped by an Anglice; though where there was a proper Latin word for the thing intended to be expressed, nothing could help an improper one. And when there was no Latin for a thing, words made which had some countenance of Latin, were allowed good, as Velvetum, Anglice velvet, &c. 10 Rep. 153. See titles Pleading I. 3: Process.

LATINARIUS, An interpreter of Latin, or Latiner, from the Fr. latiner. 2 Inst. 515. See Latimer.

LATITAT, A writ whereby all men are originally called to answer in personal actions in the King's Bench; having its name upon a supposition that the defendant doth lurk and lie hid, and cannot be found in the county of Middlesex to be taken by bill, but is gone into another county, to the sheriff of which this writ is directed, to apprehend him there. F. N. B. 78. Terms de Ley.

The origin of it is this: In antient time, while the King's Bench was moveable, when any man was sued, a writ was sent forth to the sheriff of Middlesex, or any other county where the Court was resident, called a bill of Middlesex, to take him; and if the sheriff returned Non est inventus, then a second writ was sued out, reciting that it was testified that the defendant lurked and lay hid in another county, and thereby the sheriff of that county was commanded to attach the party in any other place, where he might be found; and when the tribunal of the King's Bench came to be settled at Westminster, the same course was observed for a long time; but afterwards, by the contrivance of clerks, it was devised to put both these writs into one, and so attach the defendant upon a fiction that he was not in the county of Middlesex, but lurking elsewhere; and that therefore he
was to be apprehended by the sheriff of the county where he was suspected to be; and lie hid.

It is called a testatum writ, from the words "Testatum est, It is testified," Issuing out of B. R. grounded upon a Bill of Middlesex, supposed to be sued out before, and returned Non est inventus; and is in nature of the original writ Clausam fregit, on which the practice is in the Common Pleas. 2 Lit. Abr. 147. See this Dict. titles Capitats; Common Pleas. A Lattitat cannot issue into the county of Middlesex, except the Court remove out of Middlesex into another county; for in the county where the Court of B. R. is, the process must be by Bill, and out of the county by Lattitat. 2 Liu. Abr. 147.

If the writ of Lattitat is issued during the vacation, it must be as of the last day of the term preceding: A process or note is to be made of it on paper for the officer by the plaintiff's attorney, together with a memorandum or minute of his warrant duly stamped, pursuant to stat. 23 Geo. 3. c. 80. § 13. The Lattitat being filled up, is to be carried with the note to the King's Bench Office, and there the writ is signed; from whence it is carried to the Seal-Office, where it is sealed. See Impey, K. B.—If it is intended to hold the defendant to bail, an affidavit of the debt must be made, an acavit introduced into the body of the writ, the sum sworn to indorsed on the back previous to the signing and sealing of the writ, after which a warrant is to be procured from the sheriff of the county to execute the writ. See titles Arrest; Bail.

Where the defendant is in the actual or supposed custody of the Marshal of K. B. upon a Bill of Middlesex or Lattitat, &c. the bill exhibited against him as a prisoner of the Court, is considered as the commencement of the suit; and the Bill of Middlesex or Lattitat merely as process to bring him into Court. 1 Wils. 40. 144: 2 Burr. 960. But see 3 Burr. 1244.—Such process, therefore, may be sued out, though the defendant ought not to be arrested upon it, before the cause of action. Cro. Eliz. 271: Cro. Jac. 561: 1 Ventr. 28: 8 Mod. 343: 1 Wils. 142: 2 Burr. 967: Doug. 63. And the plaintiff is allowed to give in evidence a cause of action, arising after it is sued out, and before the exhibiting of the bill. Co. 9. 454.

It has been frequently ruled, however, that for certain purposes a Bill of Middlesex or Lattitat, out of B. R., may be taken to be in nature of an Original Writ in the Common Pleas, Co. 9. 456. And a Lattitat, even without a Bill of Middlesex, if properly issued and continued on the roll, has been held to be a good commencement of the suit to avoid a plea of the statute of limitations; or a tender made after suing it out. As to the former, see Stig. 156, 178: 1 Sid. 53, 60: 2 Lord Raym. 880: 1 Stra. 550: 2 Stra. 755: 2 Ld. Raym. 1441: 2 Burr. 961: and as to the latter, Cro. Car. 264: 1 Wils. 141.

Lord Holt made a distinction between a civil and a penal action; but upon a Writ of Error, all the Judges in the Exchequer Chamber held that a Lattitat is a kind of Original in the King's Bench. See Karih. 233: 2 Ld. Raym. 883. And accordingly in two subsequent cases it was held to be a good commencement of the suit in a penal action, Bridges v. Knapton: Hardiman v. Whitaker: cited 2 Burr. 950: 3 Burr. 1243: Co. 9. 454.

Hence it appears that a Lattitat may be considered either as the commencement of the action, or only as process to bring the defendant into Court; at the election of the plaintiff. Bull. N. P. 151.
LAW, 87. Though if it be stated as the commencement of the action to avoid a tender, the defendant may deny that the plaintiff had any cause of action at the time of suing it out. 1 Wils. 141. Or, if it be replied to a plea of the statute of limitations, the defendant, in order to maintain his plea, may aver the real time of suing it out in opposition to the Teste. 2 Burr. 950. See Tidd's Practice, K. B. c. 14; and this Dictionary, title Limitation of Actions.

It was formerly held that a writ of Latitat did not run into Wales; but the contrary has since been determined, and is now the common practice. See 1 Wils. 193: Doug. 202—3, (213.)

For other matters connected with an explanatory of the subject of this title, see this Dict. titles Process; Practice; Acetiam; King's-Bench; Common Pleas; Capitie, &c.

LATRO, Latrocinium.] He who had the sole jurisdiction de latrone in a particular place: it is mentioned in Leg. Wil. I. See In-fangthef.

LATTA, A Lath. Cowell.

LAVATORIUM, A Laundry, or place to wash in. Applied to such a place in the porch or entrance of cathedral churches, where the priest and other officiating members were obliged to wash their hands, before they proceeded to divine service. See Liber Statut, Eccl. Paul. London. MS. f. 59.

LAVERBREAD. In the county of Glamorgan, and some other parts of Wales, they make a sort of food of a sea-plant, which seems to be the oyster-green, or sea liverwort; and this they call Laverbread.

LAVINA, See Labina.

LAUDARE, To advise or persuade. Leg. Edw. Confess. c. 39: Howden, p. 729. Laudare signifies also to arbitrate; and laudator, an arbitrator. Knight, p. 2526.

LAUDUM, An arbitration, or award. Walsingham, p. 60.

LAUNCEGAYS, A kind of offensive weapons now disused, and prohibited by the stat. 7 R. 2, c. 13.

LAUND or LAWND, landa.] An open field without wood. Boun.

LAURELS, Pieces of Gold coined in the year 1619, with the King's head laured, which gave them the name of Laurels; the twenty shilling pieces whereof were marked with XX, the ten-shillings X., and the five shilling piece with V. Camd. Annal. Jac. 1 MS.

LAW, Sax. lag; Lat. lex, from lego or legendo, choosing; or rather ligando, from binding.] The rule and bond of men's actions: or it is a rule for the well-governing of Civil Society, to give to every man that which doth belong to him.

Law, in its most general and comprehensive sense, is thus defined by Blackstone, in the Commentaries: A Rule of Action; and is applied indiscriminately to all kinds of action, whether animate or inanimate, rational or irrational. And it is that rule of action which is prescribed by some Superior, and which the Inferior is bound to obey. 1 Comn. Introd. § 2.

Laws in their more confined sense, and in which it is the business of works of this nature to consider them, denote the rules, not of action in general, but of human action or conduct. And this perhaps (it has been acutely observed) is the only sense in which the word Law can be strictly used; for in all cases where it is not applied to
Human conduct, it may be considered as a metaphor, and in every instance a more appropriate term (as quality or property) may be found. When Law is applied to any other object than Man, it ceases to contain two of its essential ingredients, disobedience and punishment. 1 Comm. Intro. § 2. and Mr. Christian's notes there.

Municipal Law is, by the same great Commentator defined to be: "A rule of civil conduct prescribed by the Supreme Power in a State; commanding what is right, and prohibiting what is wrong."—The latter clause of this sentence seems to Mr. Christian to be either superfluous or defective. If we attend to the learned Judge's exposition, perhaps we may be inclined to use the words "establishing and ascertaining what is right or wrong," and all cavil or difficulty will vanish. See 1 Comm. pp. 43—53.

Every Law may be said to consist of several parts—Declaration: whereby the rights to be observed, and the wrongs to be eschewed, are clearly defined and laid down; Directory: whereby the Subject of a State is instructed and enjoined to observe those rights, and to abstain from the commission of those wrongs;—Remedial; whereby a method is pointed out to recover a man's private rights or redress his private wrongs;—Vindicatory; which imposes the sanction whereby it is signified what evil or penalty shall be incurred by such as commit any public wrongs, and transgress or neglect their duty. See 1 Comm. 53.

According to Bracton, Lex est sanctio justa, jubens honesta et prohibens contraria: And the Schoolman says, Lex humana est quoddam dictamen rationis, quo dirigatur humani actus. The Law is rectum, as it discovers that which is crooked or wrong; and these three qualities are incident to the Law, viz. It must be justa, jubens honesta, prohibens contraria: And justa requires five properties; possibilis, necessaria, conveniens, manifesta, nullo privato commodo. 2 Inst. 56, 587.

Laws are arbitrary or positive, and natural; the last of which are essentially just and good, and bind every where and in all places where they are observed: Arbitrary Laws are either concerning such matter as is in itself morally indifferent, in which case both the Law and the matter, and subject of it, is likewise indifferent, or concerning the natural law itself, and the regulating thereof; and all arbitrary Laws are founded in convenience, and depend upon the authority of the legislative power which appoints and makes them, and are for maintaining public order; those which are natural Laws are from God; but those which are arbitrary, are properly human and positive institutions. Selden on Fortescue, c. 17.

The Laws of any country began, when there first began to be a State in the land: and we may consider the world as one universal society, and then that Law by which nations were governed, is called jus gentium: if we consider the world as made up of particular nations, the Law which regulates the public order and right of them, is termed jus publicum; and that Law which determines the private rights of men, is called jus civilis. Selden, ubi supra. See Montesquieu on this subject.

No Law can oblige a people without their consent; this consent is either verbis or factis, i.e. it is expressed by writing, or implied by deeds and actions; and where a law is grounded on an implied assent, rebus & factis, it is either Common Law or custom: if it is uni-
versal, it is Common Law; and if particular to this or that place, then it is Custom. 3 Salk. 112.

The Law in this land hath been variable; the Roman Laws were in use antiently in Britain, when the Romans had several colonies here, each of which was governed by the Roman Laws: afterwards we had the Laws called Merchentlage, West Saxonlage, and Danelage; all reduced into a body, and made one by King Edw. Confess. Magna Charta, c. 1 & 14: Camd. Britain, 94.

At present the Laws of England are divided into three parts: 1. The Common Law, which is the most antient and general Law of the realm, and common to the whole kingdom; being appropriate thereto, and having no dependence upon any foreign law whatsoever. See title Common Law.

2. Statutes or Acts of Parliament, made and passed by the King, Lords, and Commons in Parliament; being a reserve for the Government to provide against new mischiefs arising through the corruption of the times: and by this the Common Law is amended where defective, for the suppression of public evils; though where the Common Law and Statute Law concur or interfere, the Common Law shall be preferred. See title Statutes.

3. Particular Customs; but they must be particular, for a general Custom is part of the Common Law of the land. Co. Lit. 15,115. See title Custom.

Blackstone divides the municipal Law of England into two kinds, Lex non scripta, the unwritten or Common Law; and the Lex scripta, the written, that is, the Statute Law.

The Lex non scripta or unwritten Law, includes not only general Customs, or the Common Law properly so called; but also the particular Customs of certain parts of the kingdom; and likewise those particular Laws, that are by custom observed only in certain courts and jurisdictions. 1 Comm. Introd. § 3.

There is another division of our Laws; more large and particular; as into the Prerogative or Crown Law; the Law and Custom of Parliament; the Common Law; the Statute Law; Reasonable Customs; the Law of Arms, War, and Chivalry; Ecclesiastical or Canon Laws; Civil Law, in certain Courts and Cases; Forest Law; the Law of Marque and Reprisal; the Law of Merchants; the Law and Privilege of the Stannaries, &c. But this large division may be reduced to the common division: and all is founded on the Law of Nature and Reason, and the revealed Law of God, as all other Laws ought to be. 1 Inst. 11.

The Law of Nature is that which God at man's creation infused into him, for his preservation and direction; and this is lex aeterna, and may not be changed: and no laws shall be made or kept, that are expressly against the Law of God, written in his Scripture; as to forbid what he commandeth, &c. 2 Sheft. Abr. 356.

All Laws derive their force à lege nature; and those which do not, are accounted as no Laws. Fortescue. No Law will make a construction to do wrong; and there are some things which the Law favours, and some it dislikes; it favoureth those things that come from the order of nature. 1 Inst. 183, 197. Also our Law hath much more respect to life, liberty, freehold, inheritance, matters of record, and of substance; than to chattels, things in the personality, matters not of record, or circumstances. Ibid. 137: 4 Reph. 124.
As to the mode of interpreting Laws, see 1 Comm. § 2.—Of the general foundation of the Laws of England, Id. § 3.—And of the countries subject to the Laws of England, Id. § 4.—See also this Dict. titles Ireland; Scotland; Plantations; Statutes; Common Law; Canon Laws; Civil Law, &c. &c.

Law hath also a special signification, wherein it is taken for that which is lawful with us, and not elsewhere; as tenant by the Custumary of England, is called tenant by the Law of England.

LAWS OF ARMS, Lex armorum.] Is that Law which gives precepts how to proclaim war, make and observe leagues and treaties, to assault and encounter an enemy, and punish offenders in the camp, &c. The Law and Judgment of Arms are necessary between two strange princes of equal power, who have no other method of determining their controversies, because they have no superior or ordinary Judge, but are supreme and public persons; and by the Law of Arms, Kings obtain their rights, rebels are reduced to obedience, and peace is established: but when the Laws of Arms and war do rule, the civil Laws are of little or no force. Treat. Laws 57.

It is a kind of Law among all Nations, that in case of a solemn war, the Prince that conquers gains a right of dominion, as well as property over the things and persons he has subdued; and it is for this reason, because both parties have appealed to the highest tribunal that can be, viz. the trial by Arms and War; wherein the Great Judge and Sovereign of the World, in a more especial manner, seems to decide the controversy. Hale's Hist. L. 73, 74.

Common things concerning Arms and War, are under the cognizance of the Constable and Marshal of England, 13 R. 2. at. 1, c. 2. See titles Constable; Court of Chivalry.

LAW-BOOKS. All books written in the Law are either historical, as the Year-books; explanatory, such as Staunforde's Treatise of the Royal Prerogative; miscellaneous, as the Abridgments of the Law; monological, being on one certain subject such as Lambard's Justice of Peace, &c.—Fulbeck's Parallel, c. 3. The books of Reports have such great weight with the Judges, that many of them are as highly valued as the Responsa Prudentum among the Romans, which were authoritative. Wood's Inst. 10.

The decisions of Courts (says Blackstone) are held in the highest regard, and are not only preserved as authentic records in the treasuries of the several Courts, but are handed out to public view in the numerous volumes of Reports which furnish the Lawyer's library. These Reports are histories of the several Cases, with a short summary of the proceedings, which are preserved at large in the record; the arguments on both sides, and the reasons the Court gave for its judgment, taken down in short notes by persons present at the determinations. And these serve as indexes to and also to explain the Records, which always, in matters of consequence and nicety, the Judges direct to be searched.

These Reports are extant in a regular series, from the reign of King Edward II. inclusive; and from this time to that of King Henry VIII. were taken by the Prothonotaries or Chief Scribes of the Court at the expense of the Crown; and published annually; whence they are known under the denomination of the Year-Books. Blackstone proceeds to express his wish that this beneficial custom
had been continued. He laments the deficiency and inaccuracy of
the many Reports from that time to the period in which he wrote;
and the neglect of the appointment which King Jac. I., at the in-
stance of Lord Bacon, made of two reporters, with a stipend for that
purpose. 1 Comm. Introd. § 3.

This evil has however been since, in a great measure, remedied,
by several periodical publications of Reports of the Cases deter-
mined in the Courts of Law and Equity, soon after the end of the
Terms in which they are decided. The public encouragement given
to these works, seems a more adequate mode of reward than Royal
munificence could devise; even in a reign distinguished for the
patronage of learning and genius. And there is now every reason
to expect that a plan so well supported will continue to be adopted,
as long as it shall please Providence to preserve Law, and the
Courts of Law, in Great Britain.

Some of the most valuable of the antient Reports are those pub-
lished by Lord Chief Justice Coke; and these are generally cited,
by way of excellence, as The Reports; thus, 1 Ref. 2 Ref. &c.
while other Reports are cited by the name of the Reporter, 1 Ventr:
1 Salk. &c.

Besides the Reporters, there are also other authorities to whom
great veneration and respect are paid by the students of the Common
Law. Such are Glanvil, Bracton, Britton, Fleta, Hengham, Littleton,
Statham, Brooke, Fitzherbert, Staunforde, and others of antient date.
[Hale, Hawkins, Foster, and others of modern date, among whom
the author of the Commentaries now holds an honourable rank.] Their
treatises are cited as authority, and are evidences that cases
have formerly happened in which such and such points were deter-
mined, which are now become settled and fixed: principles. One of
the last of these methodical writers (according to Blackstone) in
point of time, whose works are of any intrinsic authority in the
Courts of Justice, is Sir Edward Coke, commonly called Lord Coke,
from his having been, as was already mentioned, Lord Chief Jus-
tice.—He left four volumes of institutes; the first being a very
extensive comment upon a little excellent treatise of Tenures com-
piled by Judge Littleton, in the reign of Edward IV. This is gen-
erally called Coke-Littleton, (meaning Coke upon Littleton,) and is so
cited by lawyers; or still more usually as First Institute. This has
been since enlarged by the very learned and laborious notes of Mr.
Hargrave and Mr. Butler; and taken altogether, is a book of the
greatest value and highest authority in the Law.

Of late also have appeared a vast variety of Abridgments of Ge-
neral Law; and Systems of particular branches of it; which, with
the Statutes at Large, and other publications, swell Lawyers’ li-
raries to a size which they perhaps, as well as their clients, would be
glad to see lessened. But the delay imputed to, rather than suffer-
ed in Courts of Justice, and the multiplication of cases and deter-
minations, is a price which every free and opulent commercial na-
tion must pay for the innumerable blessings it enjoys, under such a
Government as that long established in this country. See Montes-
quieu Spir. of Laws, lib. vi. c. 2.

LAW-DAY, Lagedayum.] Called also view of Frankpled, or
Court-Leet; was any day of open court; and commonly used for the
Courts of a county or hundred.
LAWING OF DOGS. The cutting off several claws of the forefeet of dogs in the forest. See Forest.

LAWLESS-COURT. A Court held on King's-Hill at Rochford in Essex, on Wednesday morning next after Michaelmas-Day, yearly, at cock-crowing; at which court they whisper and have no candle, nor any pen and ink, but a coal: and he that owes suit or service there, and appears not, forfeits double his rent. This Court is mentioned by Camden, who says, that this servile attendance was imposed on the tenants, for conspiring at the like unseasonable time to raise a commotion. Camd. Britan. It belongs to the honour of Raleigh, and is called Lawless, because held at an unlawful hour; or quia dicta sine lege. The title of it is in rhyme, and in the Court Rolls runs thus:

King's-hill in Rochford.

Curia de Domino Rege,
Dicta sine lege,
Tenta est ibidem
Per ejusdem consuetudinem,
Anie ortum solis
Lucent nisi polus,
Senecallus solus
Nil scribit nisi colis
Toises voluerit
Gallus ut cantaverit,
Per cujus soli sonitus
Curia est summonitus;
Clamat clam pro rege
In curia sine lege,
Et nisi cito venerint
Citius punituerint,
Et nisi clam accedant
Curia non attendat,
Qui venerit cum lumine erat in regimine
Et dum sunt sine lumine, cajiti sunt in crimine,
Curia sine cura.
Jurata de injuria.

Tenta ibidem die Mercurii (ante diem) proximi post festum Sancti Michaelis anno regni regis, &c.

LAWLESS MAN, [Exleor.] An outlaw. Bract. lib. 3. c. 11.

LAW OF MARQUE, from the Germ. march, i. e. limes. Is where they are driven to it, do take the shipping and goods of that people of whom they have received wrong, and cannot get ordinary justice in another territory, when they can take them within their own bounds and precincts. Stat. 27 Ed. 3. st. 2. c. 17.

LAW MARTIAL. See title Courts Martial.

LAW MERCHANT, Lex mercatoria. A special law differing from the Common Law of England, proper to merchants, and part of the Law of the realm. And the charta mercatoria, 13 Ed. 1 stat. 3, grants this perpetual privilege to merchants coming into this kingdom. See also Stat. 27 Ed. 3. st. 2. cc. 2, 13, 17, 19, 20: Co. Lit. 182: and this Dict. title Custom of Merchants.

LAW PROCEEDINGS. Of all kinds, as writs, processes, pleadings, &c. are to be in the English language, by stats. 4 Geo. 2. c. 26; 5 Geo. 2. c. 27. Except known abbreviations and technical terms, stat. 6 Geo. 2. c. 13. See title Pleadings I. 3.
LAY SPIRITUAL, Lex spiritualis.] The Ecclesiastical Law, allowed by our laws where it is not against the Common law, nor the statutes and customs of the kingdom; and regularly according to such Ecclesiastical or Spiritual Laws, the Bishops and other Ecclesiastical Judges proceed in causes within their cognizance. Co. Lit. 344. It was also called Law Christian; and, in opposition to it, the Common Law was often called Lex Terrena, &c. See titles Canon Law; Courts, Ecclesiastical.

LAW OF THE STAPLE, (mentioned in stat. 27 Ed. 3. stat. 2. c. 22,) is the same with Law Merchant. See 4 Inst. 237, 238, and this Dict. tit. Staple.

LAWNS. See Cambrick.

LAWYER, Legista, Legispiritus, Jurisconsultus. By the Saxons called lahman;] A Counsellor, or one learned in the law. See titles Barrister; Attorney.

LAXELIT. See Laghslite.

LAY-CORPORATIONS, are of two sorts, civil and eleemosynary. The civil are such as are erected for a variety of temporal purposes. The eleemosynary sort are such as are constituted for the perpetual distribution of the free alms, or bounty, of the founder of them to such persons as he hath directed. See title Corporation.

LAY INVESTITURE of BISHOPS. Election was, in very early times, the usual mode of elevation to the episcopal chair throughout all Christendom; and this was promiscuously performed by the Laity as well as the Clergy; till at length, it becoming tumultuous, the Emperors and other Sovereigns of the respective kingdoms of Europe took the appointment in some degree into their own hands; by reserving to themselves the right of confirming these elections, and of granting investiture of the temporalities, which now began almost universally to be annexed to this spiritual dignity; without which Confirmation and Investiture, the elected Bishops could neither be consecrated nor receive any secular profits. This right was acknowledged in the Emperor Chariemagne A. D. 773, by Pope Hadrian I. and the council of Lateran, and universally exercised by other Christian princes: but the policy of the Court of Rome at the same time began by degrees to exclude the Laity from any share in these elections, to confine them wholly to the clergy, which at length was completely effected; the mere form of election appearing to the people to be a thing of little consequence, while the Crown was in possession of an absolute negative, which was almost equivalent to a direct right of nomination. Hence the right of appointing to Bishopricks is said to have been in the Crown of England, (as well as other kingdoms in Europe,) even in the Saxon times; because the rights of confirmation and Investiture were in effect (though not in form) a right of complete donation. But when, by length of time, the custom of making elections by the clergy only was fully established, the Popes began to except to the usual method of granting those investitures, which was per annulum et baculum, by the Prince’s delivering to the Prelate a ring, and pastoral staff or crosier; pretending, that this was an encroachment on the Church’s authority, and an attempt by these symbols to confer a spiritual jurisdiction; and Pope Gregory VII: towards the close of the eleventh century, published a bulle of excommunication against all Princes who should dare to confer Investitures, and all Prelates who should venture to receive
them. This was a bold step towards effecting the plan then adopted
by the Roman see, of rendering the Clergy entirely independent of the
civil authority; and long and eager were the contests occasioned
by this papal claim. But at length, when the Emperor Henry V.
agreed to remove all suspicion of encroachment on the spiritual char-
acter, by conferring Investitures for the future per sceptrum, and not
per annulum et baculum; and when the Kings of England and France
consented also to alter the form in their kingdoms, and receive only
homage from the Bishops for their temporalities, instead of in-
vesting them by the ring and crozier, the Court of Rome found it
prudent to suspend for awhile its other pretensions.

This concession was obtained from King Henry the First in Eng-
land, by means of that obstinate and arrogant prelate Archbishop
Anselm: but King John (about a century afterwards) in order to ob-
tain the protection of the Pope against his discontented barons, was
also prevailed upon to give up by a charter, to all the monasteries
and cathedrals in the kingdom, the free right of electing their Pre-
lates, whether Abbots or Bishops: reserving only to the Crown the
custody of the temporalities during the vacancy; the form of granting
a licence to elect, (which is the original of our conge d'eslier,) on re-
fusal whereof the electors might proceed without it; and the right
of approbation afterwards, which was not to be denied without a
reasonable and lawful cause. This grant was expressly recognized
and confirmed in King John's Magna Charta, and was again estab-
lished by statute 25 Ed. 3. st. 6. § 3.

But by statute 25 H. 8. c. 20, the ancient right of nomination was,
in effect, restored to the Crown. See 1 Comm. 377: and this Dict.
title Bishop.

LAY-FEE, feodum laicum.] Lands held in fee of a laylord, by the
common services to which military tenure was subject; as distin-
guished from the ecclesiastical holding in frankalmoign, discharged

LAYMAN, One that is not of the Clergy; the Latin word Latieus
signifying as much as ppopulus, that which is common to the people,
or belongs to the laity. Lit. Dict.

LAYSTALL, Sax.] A place to lay dung or soil in.

LAZARETS, Places where quarantine is to be performed, by
persons coming from infected countries. Escaping from them, felo-
ny without benefit of clergy. See stats. 1 Jac. 1. c. 31: 26 Geo. 2. c.
6: 29 Geo. 2. e. 8: and this Dict. title Plague.

LAZZI. The Saxons divided the people of the land into three
ranks; the first they called Edilingi, which were such as are now
nobility; the second were termed Frilingi, from friling signifying
that he was born a freeman, or of parents not subject to any servitude,
which are the present gentry: and the third and last were called Lazz-
i, as born to labour, and being of a more servile state than our ser-
vants, because they could not depart from their service without the
leave of the lord; but were fixed to the land where born, and in the
nature of slaves; hence the word lazzi or lazy, signifies those of a
servile condition. Nijhardus de Saxonibus, lib. 24.—It is remarkable
that the lower class of people at Naples are called Lazaroni.

LEA OF YARN, A quantity of yarn, so called; and at Kidder-
minster it is to contain 200 threads on a reel four yards about. See
stat. 22 & 23 Car. 2. c. 8.
LEASE.

LEAD, Stealing of lead affixed to a house, &c. transportation for seven years. 4 Geo. 2. c. 32. And see stat. 29 Geo. 2. c. 30, and this Dict. titles Felony, Larceny II.

LEAGUE, An agreement between Princes, &c. Also a measure of way by sea, or an extent of land, containing most usually three miles. Breakers of leagues and truces, how punished for offences done upon the seas. See stats. 4 H. 5. c. 7: 31 H. 6. c. 4: See titles Conservator of the Truce; Truce.

LEAK, or LECHE, from Sax. Leccian, to let out water.] In the bishoprick of Durham is used for a gutter; so in Yorkshire any slough or watery hole upon the road is called by this name: and hence the water tub to put ashes in to make a lee for washing of clothes, is in some parts of England termed a Leche. Cowell.

LEAKAGE, An allowance of twelve per cent. to merchants importing wine, out of the customs; and of two barrels in twenty-two of ale to brewers, &c. out of the duty of Excise. Merch. Dict.

LEAP, A net, engine or wheel, made of twigs, to catch fish in. Stat. 4 & 5 W. & M. c. 23. See Lepa.

LEAP-YEAR. See titles Bissextile; Year.

LEASE,

From locatio, letting; otherwise called a Demise, dimissio, from dimittere to depart with. A letting of lands, tenements or hereditaments to another for term of life, years, or at will, for a rent reserved. Co. Lit. 43.

A LEASE is properly a conveyance of any lands or tenements, usually in consideration of rent, or other annual recompence, made for life, for years, or at will; but always for a less time than the Lessor hath in the premises; for if it be for the whole interest it is more properly an assignment, than a Lease. He that letteth is called the Lessor, and he to whom the lands, &c. are let, is called the Lessee. Shep. Touched. c. 14: 2 Comm. c. 20.

A Lease for years is also thus defined: A contract between Lessor and Lessee for the possession and profit of lands, &c. on the one side, and a recompence for rent or other income on the other. Bac. Abr. title Leases.

This word is also sometimes, though improperly, applied to the estate, i.e. the title, time, or interest the Lessee hath in the thing demised; and then it is rather referred to the thing taken or had, and the interest of the taker therein; but it is more accurately applied rather to the manner or means of attaining or coming to the thing letten. See Shep. Touched. c. 14.

The usual words of operation in a Lease are "Demise, grant, and to farm let,—dimisi, concessi, & ad firmam tradidi."—Farm or ferme, is an old Saxon word signifying provisions. Specim. Gloss. 229. And it came to be used instead of rent or render, because antiently the greater part of rents were reserved in provisions; in corn, in poultry, and the like; till the use of money became more frequent; so that a farmer, firmarius, was one who held his lands upon payment of a rent or ferme: though at present, by a gradual departure from the original sense, the word farm is brought to signify the very estate or lands so held upon farm or rent. By this conveyance an estate for life, for years, or at will, may be created either corporeal or incorporeal hereditaments; though livery of seisin is
LEASE.

indeed incident and necessary to one species of Leases, viz. Leases for life of corporeal hereditaments, but to no other.

Whatever restriction, by the severity of the feudal law, might, in times of very high antiquity, be observed with regard to Leases; (see title Tenures) yet by the Common Law, as it has stood for many centuries, all persons seised of any estate might let Leases to endure so long as their own interest lasted, but no longer. Therefore Tenant in fee-simple might let Leases of any duration, for he hath the whole interest; but tenant in tail, or tenant for life, could make no Leases which should bind the issue in tail or reversioner; nor could a husband, seised jure uxoris, make a firm or valid Lease for any longer term than the joint lives of himself and his wife, for then his interest expired. Yet some tenants for life, where the fee-simple was in abeyance, might (with the concurrence of such as have the guardianship of the fee) make Leases of equal duration with those granted by tenants in fee-simple; such as parsons and vicars with consent of the patron and ordinary. Co. Litt. 44. So also bishops and deans, and such other sole ecclesiastical corporations as are seised of the fee-simple of land in their corporate right, might, with the concurrence and confirmation of such persons as the law requires, have made Leases for years, or for life, estates in tail, or in fee, without any limitation or control. And corporations aggregate might have made what estates they pleased, without the confirmation of any other person whatsoever. Whereas now by several statutes, this power where it was unreasonable, and might be made an ill use of, is restrained; and, where in the other cases the restraint by the Common Law seemed too hard, it is in some measure removed. The former statutes are called the restraining; the latter, the enabling statute, 2 Comm. c. 20. See post. II.

Having premised thus much, the further information on this subject may be thus conveniently classed:

I. Of Leases in general; by persons enabled to make them at Common Law.

1. Of the Nature of a Lease, and Leasehold Estate, and the Construction of Words in granting thereof.

2. By whom Leases may be granted; and herein shortly of Leases made by virtue of Powers.—[See also this Dictionary, title Power.]

3. Of Covenants in Leases, and how far Assignees are affected by them.—See also this Dictionary, titles Covenants; Assignment.

4. Of the Expiration of Leasehold Tenures, and of Notice to tenants to quit.—[See also this Dictionary, title Ejectment.]

II. Of Leases under the enabling and restraining Statutes.

III. Of Acceptance of Rent.

1. Where it shall
2. Where it shall not

For other matters relative to Leases, see particularly Bac. Abr. title "Leases and Terms for Years," recommended by Blackstone to particular notice. See also Shep. Touchat. c. 14; and this Dictionary, titles Rent; Deed; Surrender; and the other titles above referred to. See the stats. 4 Geo. 2, c. 28: 11 Geo. 2, c. 19, under title Rent.
I. 1. A Lease may be made either in writing or by word of mouth: it is sometimes made and done by record, as Fine, Recovery, &c. and sometimes and most frequently by writing, called a Lease by Indenture; albeit, it may be also made by deep-poll; and sometimes also it is (as it may be of land or any such like thing grantable without deed for life, or never so many years) by word of mouth, without any writing; and then it is called a Lease-parol. Sheph. Touchst. c. 14. But by the statute of frauds, stat. 29 C. 2. c. 3, Leases of lands must be in writing, and signed by the parties themselves, or their agents duly authorised, otherwise they will operate only as Leases at Will; except Leases not exceeding three years. A parol agreement to lease lands for four years creates only a tenancy at will. 4 Term Rep. 680.—But see 8 Term Rep. 3, that a Lease by parol enures as a tenancy from year to year; the meaning of the statute of frauds being that such an agreement should not operate as a Term.

A Lease may be made by all the ways above mentioned, either for life, for years, or at will. For life; as for life of the Lessee, or another, or both. For years; i.e. for a certain number of years, as 10, 100, 1000, or 10,000 years, months, weeks, or days, as the Lessor and Lessee do agree. And then the estate is properly called a term for years; for this word term doth not only signify the limits and limitation of time, but also the estate and interest that doth pass for that time. These Leases for years do some of them commence in presenti, and some in futuro at a day to come; and the Lease that is to begin in futuro is called an interesse termini, or future interest. At will; i.e. when a lease is made of land to be held at the will and pleasure of the Lessor and Lessee together; and such a Lease may be made by word of mouth, as well as the former. Sheph. Touchst. c. 14.

If the Lease be for half a year, or a quarter, or any less time, this Lessee is respected as a tenant for years, and is styled so in some legal proceedings; a year being the shortest term which the law in this case takes notice of. Litt. § 58.

These estates for years were originally granted to mere farmers or husbandmen, who every year rendered some equivalent in money, provisions, or other rent, to the lessors or landlords; but in order to encourage them to manure and cultivate the ground, they had a permanent interest granted them, not determinable at the will of the Lord; and yet their possession was esteemed of so little consequence, that they were rather considered as the bailiff's or servants of the Lord, who were to receive and account for the profits at a settled price, than as having any property of their own; and, therefore, they were not allowed to have a freehold estate; but their interest (such as it was) vested after their deaths in their executors, who were to make up the accounts of their testator with the Lord and his other creditors, and were entitled to the stock upon the farm. The Lessee's estate might also, by the antient law, be at any time defeated by a common recovery, suffered by the tenant of the freehold, which annihilated all Leases for years then subsisting; unless afterwards renewed by the recoverer, whose title was supposed superior to his by whom those Leases were granted. Co. Litt. 16.

While estates for years were thus precarious, it is no wonder that they were usually very short, like the modern Leases upon rack-
rent; and, indeed, we are told, that by the antient law no Leases for more than forty years were allowable; because any longer possession (especially when given without any livery, declaring the nature and duration of the estate) might tend to defeat the inheritance. Mow. c. 2. § 27: Co. Litt. 45, 6. Yet this law, if ever it existed, was soon antiquated; for we may observe, in Madox's collection of antient instruments, some Leases for years of a pretty early date, which considerably exceed that period; and long terms for three hundred or one thousand years were certainly in use in the time of Edward III, and probably of Edward I. But certainly when by the stat. 21 Hen. 8. c. 5, the termor (that is, he who is entitled to the term of years) was protected against these fictitious recoveries, and his interest rendered secure and permanent, long terms began to be more frequent than before; and were afterwards extensively introduced, being found extremely convenient for family settlements and mortgages; continuing subject however to the same rules of succession, and with the same inferiority to freeholds, as when they were little better than tenancies at the will of the landlord. 2 Comm. c. 9.

Every estate which must expire at a period certain and prefixed, by whatever words created, is an estate for years, and therefore this estate is frequently called a term, *terminus*, because its duration or continuance is bounded, limited, and determined; for every such estate must have a beginning and certain end. Co. Litt. 45. But *id certum est, quod certum reddi potest*: therefore if a man make a Lease to another, for so many years as J. S. shall name, it is a good Lease for years; for though it is at present uncertain, yet when J. S. hath named the years, it is then reduced to a certainty. 6 Rep. 35. If no day of commencement is named in the creation of this estate, it begins from the making or delivery of the Lease. Co. Litt. 46. A Lease for so many years as J. S. shall live, is void from the beginning; for it is neither certain, nor can ever be reduced to a certainty, during the continuance of the Lease. Co. Litt. 45. And the same doctrine holds if a parson make a Lease of his glebe, for so many years as he shall continue parson of Dale, for this is still more uncertain. But a lease for twenty or more years if J. S. shall so long live, or if he should so long continue parson, is good; for there is a certain period fixed, beyond which it cannot last, though it may determine sooner on the death of J. S. or his ceasing to be parson there. Co. Litt. 45.

If a parson makes a Lease of his glebe for three years, and so from three years to three years, so long as he shall be parson, it is a good Lease for six years, if he continue parson so long. 6 Rep. 35: 3 Cro. 511.

The law reckons an estate for years inferior in interest, as compared to an estate for life, or an inheritance; an estate for life, even if it be *fur alter vie*, is a freehold; but an estate for a thousand years is only a chattel, and reckoned part of the personal estate. Co. Litt. 45. Hence it follows, that a Lease for years may be made to commence in *futuro*, though a Lease for life cannot. As if one grants lands to another to hold from Michaelmas next for twenty years, this is good; but to hold from Michaelmas next for the term of his natural life, is void. For no estate of freehold can commence in *futuro*, because it cannot be created at common law without livery of seisin, or corporal possession of the land; and corporal possession cannot be given of an estate now, which is not to commence now, but hereafter.
LEASE, I. I.

5 Rep. 94. And because no livery of seisin is necessary to a Lease for years, such Lessee is not said to be seised, or to have legal seisin of the lands. Nor indeed does the bare lease vest any estate in the Lessee; but only gives him a right of entry on the tenement, which right is called, as has been already remarked, his interest in the term, or interesse termini: but when he has actually so entered, and thereby accepted the grant, the estate is then and not before vested in him, and he is possessed, not properly of the land, but of the term of years; the possession or seisin of the land remaining still in him who hath the freehold. Co. Litt. 46. Thus the word term does not merely signify the time specified in the Lease, but the estate also and interest that passes by that Lease; and therefore the term may expire, during the continuance of the time, as by surrender, forfeiture, and the like. For which reason, if one grant a Lease to A. for the term of three years, and after the expiration of the said term, to B. for six years, and A. surrenders or forfeits his Lease at the end of one year, B's interest shall immediately take effect; but if the remainder had been to B. from and after the expiration of the said three years, or from or after the expiration of the said time in this case B's interest will not commence till the time is fully elapsed, whatever may become of A's term. Co. Litt. 45.

Generally, to the making of a good Lease several things necessarily concur; there must be a Lessor not restrained for making a Lease; a Lessee not disabled to receive; a thing demised which is demisable, and a sufficient description of the thing demised, &c. If it be for years, it must have a certain commencement and determination; it is to have all the usual ceremonies, as sealing, delivery, &c. and there must be an acceptance of the thing demised. Litt. § 56: 1 Inst. 46: Plowd. 273, 523. Whether any rent be reserved upon a Lease for life, years, or at will, or not, is not material, except only in the cases of Leases made by tenant in tail, husband and wife, and ecclesiastical persons under stat. 32 H. 8. c. 28. (See post II.) Shep. Touchst. c. 14.

A freehold Lease for three lives, differs from a chattel Lease only in this, viz. That the habendum is to the Lessee, his heirs and assigns, for and during the natural lives of him the said C. D. E. his wife, and T. D. his son, and during the life natural of every and either of them longest living. And in every covenant, the Lessee covenants for himself, his heirs and assigns; and the covenants are the same as in a chattel Lease; with the addition of a letter of attorney at the end, to deliver possession and seisin, as in a deed of feoffment. Dict.

A demise having no certain commencement is void; for every contract sufficient to make a Lease ought to have certainty in commencement, in the continuance, and in the end. Vaugh. 85: 6 Rep. 35. A Lease at will, is at the will of the Lessor or Lessee; or regularly at the will of both parties. 1 Inst. 55.

Leases exceeding three years must be made in writing; and if the substance of a Lease be put in writing, and signed by the parties, though it be not sealed, it shall have the effect of a Lease for years, &c. Wood's Inst. 266. But a Lease in writing, though not under seal, cannot be given in evidence, unless it be stamped. 1 Term Rep. 735. Articles with covenants to let and make a Lease of lands, for a certain term, at so much rent, hath been adjudged a Lease. Cro. Eliz. 426. In a covenant with the words "have, possess and occupy,
lands, in consideration of a yearly rent, without the word demise, it was held a good Lease: and a licence to occupy, take the profits, &c. which passeth an interest, amounts to a Lease. 3 Bulst. 304; 3 Salk. 223. An agreement of the parties, that the Lessee shall enjoy the lands, will make a Lease; but if the agreement hath a reference to the Lease to be made, and implies an intent not to be perfected till then, it is not a perfect Lease until made afterwards. Bridg. 13: 2 Shep. Abr. 374. If a man, on promise of a Lease to be made to him, lays out money on the premises, he shall oblige the Lessor afterwards to make the Lease; the agreement being executed on the Lessee's part, where no such expense hath been, a bare promise of the Lease for a term of years, though the Lessee have possession, shall not be good without some writing. Preced. Can. 561. See title Agreement.

A paper containing words of present contract, with an agreement that the Lessee should take possession immediately, and that a Lease should be executed in future, operates only as an agreement for a Lease, and not as a Lease itself.—1 Term Ref. 735.

An instrument on an agreement-stamp reciting that A. in case he should be entitled to certain copyhold premises on the death of B. would immediately demise the same to C.; declaring, that he did thereby agree to demise and let the same, with a subsequent covenant to procure a licence to let, from the Lord, operates as an agreement for a Lease, and not as an absolute demise. 2 Term Ref. 739.

Words in an agreement that A. shall hold and enjoy, &c. if not accompanied with restraining words, operate as words of present demise; otherwise, if they be followed by others, which shew that the parties intended that there should be a Lease in future. The whole must depend on the intention of the parties. 5 Term Ref. 168.

These words in an instrument, "Be it remembered, that I. B. hath let, and by these presents doth demise, &c."

...
an hundred pounds be paid, it is a Lease of the rent for five years, Co. Litt. 42. If a man makes a Lease of land to another, until he shall levy out of the profits one hundred pounds, or he is paid that sum, &c. this will be a Lease for life, determinable on the payment of the hundred pounds, if livery and seisin be made; but if there is no livery, it will not be good for years, but void for uncertainty. 21 Assis. 18 Plov. 27: 6 Rep. 35. See Livery of Seisin.

A Lease for years to such person as A. B. shall name, is not good; though it may be for so many years as he shall name, not as shall be named by his executors, &c. for it must be in the life-time of the Parties. Hob. 173: Moor 911.

If one makes a Lease for a year, and so from year to year, it is a Lease for two years; and afterwards it is but an estate at will. 1 Mod. 4: 1 Latw. 213. And if from three years to three years, it is a good Lease for six years; also if a man make a Lease for years, without saying for how many, it may be good for two years, to answer the plural number. Wood's Inst. 265.

Lease for one year, and so for two or three years, or any further term of years, as Lessor and Lessee shall think fit and agree, after the expiration of the said term of one year; this is a good Lease for two years; and after every subsequent year begun, is not determinable till that be ended. 1 Wils. part l. p. 262. But if the original contract were only for a year, or if it were at so much per ann. rent, without mentioning any time certain, it would be a tenancy at will after the expiration of the year; unless there were some evidence by a regular payment of rent annually or half yearly, that the intent of the parties was that he should be tenant for a year. Bull. N. P. 84. (2d edit.)

A Lease in 1785 for three, six or nine years, determinable in 1788, 91, 94, is a Lease for nine years, determinable at the end of three or six years, by either of the parties on giving reasonable notice to quit. 3 Term Rep. 463.

If a tenant from year to year hold for four or five years either he or his landlord, at the expiration of that time, may declare on the demise as having been made for such a number of years. 1 Term Rep. 380: See Salk. 414.

In case of a tenancy from year to year, as long as both parties please, if the tenant die intestate, his administrator has the same interest in the land which the Intestate had. 3 Term Rep. 13.

A Lessee hath a term for a year by parol, and so from year to year, so long as both parties please; if the Lessee enters on a second year, he is bound for that year, and so on; and if there is a Lease by deed for a year, and so from year to year as long as both parties agree, this is binding but for one year; though if the Lessee enters upon the second year, he is for that year bound; if it is for a year, and so from year to year, so long as both parties agree, till six years expire; this is a Lease for six years, but determinable every year at the will of either party; but if it is for a year, and so from year to year till six years determine, this is a certain Lease for six years. Mod. Ca. 215. If A. make a Lease of land to B. for ten years, and it is agreed between them, that he shall pay fifty pounds at the end of the said term, and if he do so, and pay fifty pounds at the end of every ten years, then the said B. shall have a perpetual demise and grant of the lands, from ten years to ten years continually following.
extra memoriam hominum, &c. Though this be a good Lease for the first ten years, as for all the rest, it is incertain and void; by covenant a further Lease may be made for the like term of years. Plowd. 192; 2 Shef. Abr. 376.

A. and B. covenant in a Lease for sixty-one years, "that at any time within one year after the expiration of twenty years of the said term of sixty-one years, upon the request of the Lessee, and his paying 6l. to the Lessors, they would execute another Lease of the premises unto the Lessee, for and during the further term of twenty years, to commence from and after the expiration of the said term of sixty-one years, and so in like manner at the end and expiration of every twenty years, during the said term of sixty-one years, for the like consideration, and upon the like request, would execute another Lease for the further term of twenty years to commence at and from the expiration of the term then last before granted." Under this covenant the Lessee cannot claim a further term of twenty years after the end of the Lease; if he has omitted to claim a farther term at the end of the first and second twenty years in the Lease. 1 Term Rep. 229. See Bateman v. Murray, Parl. Cases, tit. Lease.

A Lease made to a man for seven years, if D. shall live so long, who is dead when the Lease is made; by this the Lessee hath an absolute Lease for seven years. 9 Rep. 63. Lease for life is granted, and says, that if the Lessee within one year do not pay 20s. then he shall have but a Lease for two years; here, if he pays not the money, he shall have only the two years, although livery of seisin he had thereon. 1 Inst. 218. If a Lease be made to A. B. during his own life, and the lives of C. and D. it is one entire estate of freehold, and shall continue during the three lives, and the life of the survivor of them; and though the Lessee can have it no longer than his own life, yet his assignee shall have the benefit of it so long as the other two are living. 5 Rep. 13: Moor 32. Where one grants land by Lease to A. B. and C. D. to hold to them during their lives, although the words 'and the longest liver of them' be omitted, they shall hold it during the life of the longest liver. 5 Rep. 9. A Lease is made to a person for sixty years, if A. B. and C. D. so long live; and afterwards A. B. dies, by his death the Lease is determined. Though if the Lease be made to one for the lives of A. B. and C. D. the freehold doth not determine by the death of one of them; and if in the other case of a term, the words 'or either of them' be inserted in the Lease, it will be good for both their lives. 13 Rep. 66.

A Lease was made to a man for ninety-nine years, if he should so long live; and if he died within the term, the son to have it for the residue of the term; this was adjudged void as to the son, because there can be no limitation of the residue of a term which is determined. Cro. Eliz. 216. But if the words of the Lease be, to hold during the residue of the ninety-nine years, and not during the rest of the term, in this case it may be good to the son also. 1 Rep. 153: Dyer 255.

A Lease was made for twenty-one years, if the Lessee lived so long; and in the service of the Lessor; the Lessor died within the term, and yet it was held that the Lease continued, for it was by the act of God that the Lessee could serve no longer. Cro. Eliz. 643.

If a Lease be to a man and to her whom he shall take to wife, it is void; because there ought to be such persons at the time of the com-
mencement of the Lease which might take. 4 Leon. 158. When a Lease in reversion is granted as such after another Lease, and that Lease is void by rasure, &c. the reversionary Lease, expectant upon the Lease for years that is void, is void also. Cro. Car. 289. But where a man recites a Lease, when in truth there is no lease; or a Lease which is void, and misrecites the same in a point material, and grants a further Lease to commence after the determination thereof; in such case the new Lease shall begin from the time of delivery. Dyer 95: 6 Ref. 36: Vaugh. 73, 80, &c.

A man makes a Lease for years to one, and afterwards makes a lease for years to another, of the same land; the second Lease is not void; but shall be good for so many years thereof, as shall come after the first Lease ended. Nay's Mar. 67. and if one make a Lease for years, and afterwards the Lessor enters upon the lands let, before the term is expired, and makes a Lease of these lands to another; this second Lease is a good Lease until the Lessee doth re-enter; and then the first Lease is revived, and he is in thereby. 2 Litt. Abr. 152. It hath been held, that a Lease may be void as to one, and stand good to another; and Leases voidable or void for the present, may after become good again. 1 Inst. 46: 3 Ref. 51. If a Lease be made to two, to hold to them and two others, it is voidable as to the two other persons; and when the two first die, the Lease is at an end. 2 Leon. 1.

A Lease which is only voidable, and not absolutely void, must be made void by the Lessor by re-entry; but if a Lease be void absolutely, there needs no re-entry; and as a voidable Lease is made void by re-entry, and putting out the Lessee; so it is affirmed by accepting and receiving the rent which acknowledges the Lessee to be tenant. 21 Car. B. R.: 2 Lit. 149. And where a Lessee for years accepts of a less term from the Lessor, even by word, it is said this is a surrender of the term which he had by deed. Style 448.

When a term for years in a Lease, and a fee-simple, meet in one person, the Lease is drowned in the inheritance; yet in some cases it may have continuance, to make good charges and payments; &c. Polph. 39; 2 Nels. Abrid. 1100. If a Lease for years is made to a man and his heirs, it shall go to his executors. 1 Inst. 46, 388. And a Lease for years, notwithstanding it be a very long Lease, cannot be intailed by deed; but may be assigned in trust, to several uses. 2 Lit. Abrid. 150. A Lease is sealed by the Lessor, and the Lessee hath not sealed the counterpart, action of Covenant may be brought upon the Lease against the Lessor: but where the Lease is sealed by the Lessee, and not the Lessor, nothing operates. Yelt. 18. Owen 100.

A man out of possession cannot make a Lease of lands, without entering and sealing the Lease upon the land. Dalin. 81. The Lessee is to enter on the premises let; and such Lessee for years is not in possession, so as to bring trespass, &c. until actual entry; but he may grant over his term before entry. 1 Inst. 46: 2 Lit. 160. If a Lessee of a future interest never enters by virtue of his term, but enters before, and continues after the commencement of the term; and then the Lessor ousts him, the Lessee may assign over his term off the land. 1 Lev. 47. But a Lease to begin at Michaelmas, if the Lessee enters before Michaelmas, and continues the possession immediately, is a disseisin. Ibid. 46.

If a Lease be made of a close of land, by a certain name, in the parish of A. in the county of B. whereas the close is in another
county, the said parish extending into both counties, such a Lease
is good to pass such land: though where a house is leased without a
name, and the parish is mistaken, it hath been held otherwise. Dyer
276, 292.

Land and mines are leased to a tenant; this only extends to the
open mines, and the Lessee shall not have any others, if there are
such: and if land and timber are demised, the Lessee is not empow-
ered to sell it. 2 Lev. 184: 2 Mod. 193. A man makes a Lease of
lands for life, or years, the Lessee hath but a special interest in the
timber trees, as annexed to the land, to have the mast and shadow
for his cattle; and when they are severed from the lands, or blown
down with wind, the Lessor shall have them as parcel of his inheri-

A demise of premises in Westminster, late in the occupation of A.
particularly describing them, part of which was a yard, does not pass
a cellar situate under that yard, which was then in the occupation
of B. another tenant to the Lessor: and the Lessor in an ejectment
brought to recover the cellar, is not estopped by his deed from go-
ing into evidence, to shew that the cellar was not intended to be de-
mised. Whether parcel or not of the thing demised is always mat-
ter of evidence. 1 Term Rep. 701.

Declarations by tenants are admissible evidence after their death,
to shew that a certain piece of land is parcel of the estate which they
occupied; and proof that they exercised acts of ownership in it, not
resisted by contrary evidence, is decisive. 2 Term Rep. 53.

If Lessee for years loses his Lease, if it can be proved that there
was such a term let to him by Lease and that is not determined, he
shall not lose his term; so it is of any other estate in lands, if the deed
that created it be lost, for the estate in the land is derived from the
party that made it, and not from the deed, otherwise than instru-
mentally and declarative of the mind and intent of the party, &c. 2
Lill. Abr. 152. If a person be in possession of the lands of another,
and hath usually paid rent for them; the proof of a quarter or half
year's rent paid, will be good evidence of a Lease at will; though it
cannot be expressly proved that the lands were demised at will to
him in possession, it shall be presumed the rent was received by the
owner of the land upon some private contract. Ibid. 151.

2. He that is seised of an estate for life, may make a Lease for
his life according as he is seised; also he may make a Lease for years
of the estate, and it shall be good as long as the estate for life doth
last; one possessed of lands for years, may make a Lease for all the
years except one day, or any short part of the term; and if Lessee
for years makes a Lease for life, the Lessee may enjoy it for the
Lessor's life, if the term of years lasts so long; but if he gives livery
and seisin upon it, this is a forfeiture of the estate for years. Wood's
Inst. 267. If tenant in tail for life make a Lease generally, it shall
be construed for his own life. 1 Inst. 42.

By various acts of parliament, and also by private settlements, a
power is granted of making Leases in possession, but not in rever-
sion for a certain time; the object being that the estate may not be
incumbered, by the act of the party, beyond a specific time. Yet
persons who had this limited power of making in possession only,
had frequently demised the premises to hold from the day of the date;
and the Courts in several instances had determined, that the words
from the day of the date; excluded the day of making the deed: and that in consequence these were Leases in reversion, and void; but this question having been brought again before the Court of B. R. it was determined that the words 'from the day' might either be inclusive or exclusive; and therefore that they ought to be construed so as to effectuate these important deeds, and not to destroy them. Pugh v. Leeds, (Duke,) Coop. 714: and see Doug. 53, 185, in nolis.

The Lease of a tenant for life who has power of leasing under certain conditions, must strictly comply with the conditions; and if it vary from them in the interest demised, or the rent reserved, it cannot be supported against the remainder-man. 5 Term Rep. 567.

Of all kinds of powers the most frequent is that to make Leases. In the making of such Leases all the requisites particularly specified in the power, must be strictly observed; and such Leases must contain all such beneficial clauses and reservations as ought to be, for the benefit of the remainder-man; the principle being, that the estate must come to him in as beneficial a manner as the antient owners held it. See 1 Burr. 120, and this Dictionary, title Power.— If a man hath power to Lease for ten years, and he leases for twenty, the Lease shall be good in equity for ten years. 1 Ch. Ca. 23. See further Sheep. Touchat. c. 14, in n.

A Lease executed by the tenant for life, in which the reversioner, who was then under age, is named, but who does not execute the Lease, is void on the death of the tenant for life; and an execution by the reversioner only afterwards is no confirmation of it, so as to bind the Lessee in an action of covenant. 1 Term Rep. 86.

Under the settlement of an estate with a power to the tenant in possession to let all or any part of the premises, so as the usual rents be reserved, a Lease of tithes which had not been let before was held void. In these cases, the intention of the parties is to govern the Court in construing the power. 3 Term Rep. 665.

Where tenant for life has a power "to grant Leases in possession, but not by way of reversion or future interest," a Lease fier verba de presenti is not contrary to the power; though the estate at the time of making the Lease was held by tenants at will, or from year to year; if, at the time, they received directions from the grantor of the Lease to pay their rent to the Lessee. Doug. 565. Good-title v. Finucan.

Under a power "to lease all manors, messuages, lands, &c. so as there be reserved as much rent as is now paid for the same," such parts of the estates enumerated in the power as have never been demised may be let; but in a family settlement of an estate consisting of some ground always occupied with the family seat, and of lands let to tenants upon rents reserved, the qualification annexed to the power of leasing, "that the antient rent must be reserved," excludes the mansion-house and lands about it never let. Doug. 565—9, 574.

Under a power to a tenant for life, to lease for years, reserving the usual covenants, &c. a Lease made by him containing a proviso that in case the premises were blown down or burned, the Lessor should rebuild, otherwise the rent should cease, is void, the Jury finding that such covenant is unusual. 1 Term Rep. 705.

If an Infant be seised of land in fee-simple, and he make a Lease for years of it, rendering no rent, this Lease is void; but if there be a rent reserved upon the Lease, then the Lease is but voidable, and
may, by the acceptance of the rent by the infant after his full age, be made good. Shep. Touchst. c. 14, cites 9 H. 7. 24; 18 E. 4. 2: Plowd. 545. In 3 Burr. 1806, it is said to have been long settled, that an infant may make a Lease without rent, to try his title, and that all Leases by an infant, whether with or without rent, if made by deed, are voidable only. See this Dictionary, title Infant; and Bac. Abr., title Leases B.

If a tenant hold under an agreement for a Lease at a yearly rent, by which it is stipulated that an agreement shall continue for the life of the Lessor, and that a clause shall be inferred in the Lease, giving the Lessor's son power to take the house for himself when he came of age, the son must make his election in a reasonable time after he comes of age. The delay of a year is unreasonable, and the tenant cannot be ejected upon half a year's notice to quit, served after such a delay: but if the son had elected within a week or a fortnight, that would have been reasonable. 2 Term Rep. 436.

By Stat. 29 Geo. 2. c. 31, Infants, Lunatics, and Femes covert, may apply to the Courts of Chancery or Exchequer, or to the Courts of Equity of the counties palatine of Chester, Lancaster, and Durham, or to the Courts of Great Session of Wales, by petition or motion in a summary way, and by the order of those Courts respectively, such persons may by deed only, without levying a fine, surrender Leases for lives or years, and take new Leases for lives or years of the premises comprised therein.

Joint-tenants, tenants in common, and coparceners, may make Leases for Life, years, or at will, of their own parts, which shall bind their companions; and in some cases, persons who are not seised of lands in fee, &c. may make Leases for life or years, by special power enabling them to do it; when the authority must be exactly pursued. Wood's Inst. 267. But there is a difference, where there is a general power to make Leases, and a particular power. See ante, &c. 8 Rep. 69.

If Joint-tenants join in a Lease, this shall be but one Lease, for they have but one freehold; but if tenants in common join in a Lease, it shall be several Leases of their several interests. 2 Ro. Ab. 64: Com. Dig. title Estates (G. 6.): Bac. Abr. Leases (l. 5.)

3. A Lessor who hath the fee cannot reserve rent to any other but himself, his heirs, &c. And if he reserves a rent to his executors, the rent shall be to the heir, as incident to the reversion of the land. 1 Inst. 47. The Lessor may take a distress on the tenements let for the rent; or may have action of debt for the arrears, &c. Also land leased shall be subject to those lawful remedies which the Lessor provides for the recovery of his rent, possession, &c. into whose handssoever the land comes. Cro. Jac. 300.

If an house falls down by tempest, &c. the Lessee hath an interest to take the timber to re-erify it for his habitation. 4 Reph. 63.

Tenants suffering houses to be uncovered, or in decay; taking away wainscot, &c. fixed to the freehold, unless put up by the Lessee, and taken down before the term is expired; cutting down timber-trees to sell; permitting young trees to be destroyed by cattle, &c. ploughing up ground that time out of mind hath not been ploughed; not keeping banks in repair, &c. are guilty of waste. 1 Inst. 52: Dyer 37; 1 Salk. 368.

Lessees are bound to repair their tenements, except it be men-
tioned in the Lease to the contrary. Though a Lessee for years is not obliged to repair the house let to him which is burnt by acci-
dent; if there be not a special covenant in the Lease, that he shall leave the house in good repair at the end of the term: yet if the house be burnt by negligence, the Lessee shall repair it, although there be no such covenant. *Pasch.* 24 Char. B. R. A Lessee at will is not bound to sustain or repair, as tenant for years is. If the house of such a tenant is burnt down by negligence, action lies not against the tenant; but action lies for voluntary waste, in pulling down houses, or cutting woods, &c. 5 Rep. 13. See title Fire.

A Lessee who covenants to pay rent and to repair with an exception of casualties by fire, is liable upon the covenant for rent, though the premises are burnt down, and not rebuilt by the Lessor after notice. 1 Term Rep. 310; Anstr. Rep. Stac. 687: but see Brown v. Quilter, Anbl. 619, where the tenant was relieved in equity, the Landlord having recovered the value against the Insurer.

A proviso in a Lease for twenty-one years, that the Landlord shall re-enter on the tenant’s committing any act of bankruptcy, whereon a commission shall issue, is good. 2 Term Rep. 133.

The bankruptcy of the Lessee is no bar to an action of covenant (made before his bankruptcy) brought against him for rent due after the bankruptcy. 4 Term Rep. 94.

Though a bankrupt cannot give a lien on any particular goods, yet he may take a demise, and agree that the rent shall be payable on a particular day; e. g. he may agree to pay half a year’s rent in advance; where, by the custom of the country, half a year’s rent becomes due on the day on which a tenant enters. And in this case the law gives the landlord a power of distrainting on that day. 2 Term Rep. 600. See this Dictionary, titles Rent; Distress.

A covenant in a Lease that the Lessee, his executors and admin-
istrators, shall constantly reside on the demised premises during the demise, is binding on the assignee of the Lessee, though he be not named. 2 H. Black. Rep. C. P. 133.

If both Lessee and Lessor sign a Lease, the Lessee is estopped from pleading *nil habuit in tenementis,* to an action of debt for rent by the Lessor. 6 Term Rep. 62.

Covenant will lie against an original Lessee, before he takes ac-
tual possession; and so before actual possession against an assignee, under an absolute indefeasible assignment of the whole interest in the term; but not against a mortgagee of the term, even after the mortgage is forfeited, till he takes actual possession. See Eaton v. Jaques, Doug1. 455—461, and the notes there.

Under a proviso that all assignments of a Lease shall be void if not enrolled, Under Leases are not included; and an Under-Lease is no assignment to the effect of working a forfeiture under a pro-
viso not to assign. Doug1. 56, 7, 8. 184. But what cannot be sup-
ported as an assignment shall be good as an Under-Lease, against the party granting it. Doug1. 188, in n.

When the whole term is made over by the Lessee, although in the deed by which that is done, the rent and a power of entry for non-payment is reserved to him and not to the original Lessor, this is an assignment, and not an Under-Lease. Palmer v. Edwards, Doug1. 187, in n.

If a Lease contain a covenant that the Lessee, his executors, &c.
shall not set, let, or assign over the whole or part of the premises without leave in writing, on pain of forfeiting the Lease; the administratrix of the Lessee cannot under-let without incurring a forfeiture, though for less time than the whole term: a parol licence to let part of the premises does not discharge the Lessee from the restriction of such a proviso. 2 Term Rep. 425.

A warrant of attorney to confess Judgment on which a Lease is taken in Execution, and sold, is no forfeiture of the Lease under a covenant not to let, set, assign, &c. but where a tenant gave such warrant of attorney to a creditor, for the express purpose of enabling the creditor to take the Lease in execution, this was held a fraud on the covenant, and the landlord recovered the premises in ejectment. 6 Term Rep. 57, 300.

A landlord cannot maintain an action of covenant for rent against an under-tenant, who holds for a term less than the time granted in the original Lease. Doug. 12, Hadford v. Hatch. But if the whole of a term is made over by the Lessee, although in the deed he reserves the rent, and a power of entry for non-payment to himself and not to the original Lessor; and although he introduce new covenants; the person to whom it is made over may sue the original Lessor or his assignee of the reversion, or be sued by them as assignee of the term, on the respective covenants in the original Lease. Palmer v. Edwards, B. R. E. 23 Geo. 3: Doug. 187, 8, in n.

An assignee of a bankrupt, a devisee, and a personal representative, are assignees in law to the purpose of being liable to actions on a covenant for rent in a Lease to the bankrupt, devisee, or intestate. Doug. 184. But whether the transfer to them is such an assignment as will occasion a forfeiture under a proviso not to assign, is a much litigated, but as it seems unsettled, question; and it appears that it is not. 3 Wils. 237. But see Doug. 184, in n.

A Lessee for twenty-one years at a pepper-corn rent for the first half-year, and a rack rent for the rest of the term, who by agreement was to put the premises in repair, and covenanted to pay the land-tax, and all other taxes, rates, assessments, and impositions, having assigned his terms for a small sum in gross, was held not to be liable to pay the expense of a party-wall; either by the provisions of stat. 14 Geo. 3. c. 78. § 41, or by the covenant; but the charge must in such case be borne by the original landlord: for the statute intended to throw that burthen on persons to whom long Leases had been granted, with a view to an improvement of the estate, and who afterwards underlet at a considerable increase of rent. 3 Term Rep. 458.

By stat. 32 Hen. 8. c. 34, grantees of reversions have the same remedy against Lessees, their executors, &c. as their grantors had. See title Covenant III.

Persons for whose lives estates are held by Lease, &c. remaining beyond sea, or being absent seven years, if no proof be made of their being alive, shall be accounted dead. St. 19 Car. 2. c. 6. See titles Life-Estate; Occupancy.

4. Lands are leased at will, the Lessee cannot determine his will before or after the day of payment of the rent, but it must be done on that very day; and the law will not allow the Lessee to do it to the prejudice of the Lessor as to the rent; nor that the Lessor shall determine his will to the prejudice of the Lessee, after the land is sown with corn, &c. Sid. 339: Lev. 109. For where Lessee at will sows
the land, if he does not himself determine the will, he shall have the corn: and where tenant for life sows the corn, and dies, his executors shall have it; but it is not so of tenant for years, where the term ends before the corn is ripe, &c. 5 Ref. 116. The Lessor and Lessee, where the estate is at will, may determine the will when they please; but if the Lessor doth it within a quarter, he shall lose that quarter's rent; and if the Lessee doth it, he must pay a quarter's rent. 2 Saik. 413. By words spoken on the ground, by the Lessor in the absence of the Lessee, the will is not determined; but the Lessee is to have notice. 1 Inst. 55. If a man makes a Lease at will, and dies, the will is determined; and if the tenant continues in possession, he is tenant at sufferance. Ibid. 57. But where a Lessor makes an estate at will to two or three persons, and one of them dies, it has been adjudged this doth not determine the estate at will. 5 Ref. 10. Tenant at will grants over his estate to another, it determines his will. 1 Inst. 57. It hath been said, that where a Lessee for years accepts of a less term from the Lessor even by word, this is a surrender of the term he had by deed. Sty. 448. Sed. q. See 6 East's Reports, 86. No tenant shall take Leases of above two farms, in any town, village, &c. nor hold two unless he dwell in the parish, under penalties and forfeitures, by stat. 25 H. 8. c. 13. § 14. See also stat. 21 H. 8. c. 13. Statutes to which there is not any regard now paid.

Tenant for term of years hath, incident to and inseparable from his estate, unless by special agreement, the same estovers which tenant for life is entitled to; that is to say, house-bote, fire-bote, plough-bote, and hay-bote. Co. Lit. 45. See titles Bote; Estovers.

With regard to emblements, or the profits of lands sowed by tenant for years, there is this difference between him and tenant for life; that where the term of tenant for years depends upon a certainty, as if he holds from Midsummer for ten years, and in the last year he sows a crop of corn, and it is not ripe and cut before Midsummer, the end of his term, the landlord shall have it; for the tenant knew the expiration of his term, and therefore it was his own folly to sow what he could never reap the profits of. Litt. § 68. But where the Lease for years depends upon an uncertainty, as, upon the death of the Lessor, being himself only tenant for life, or being a husband seized in right of his wife; or if the term of years be determinable upon a life or lives; in all these cases an estate for years not being certainly to expire at a time foreknown, but merely by the act of God, the tenant, or his executors, shall have the emblements in the same manner that a tenant for life, or his executors shall be entitled thereto. Co. Litt. 56. Not so if it determine by act of the party himself; as if tenant for years does any thing that amounts to forfeiture, in which case the emblements shall go to the Lessor, and not to the Lessee, who hath determined his estate by his own default. Co. Litt. 55: and see 2 Comm. 144.

Where a Lease came into the hands of the original Lessor by an agreement entered into between him and the assignee of the original Lessee, "that the Lessor should have the premises as mentioned in the Lease, and should pay a particular sum over and above the rent annually, towards the goodwill already paid by such assignee," such agreement operates as a surrender of the whole term. 1 Term Ref. 441.

The mere cancelling a Lease is not a surrender within the statute of Frauds; nor is the recital in a second Lease that it was granted in
part consideration of the surrender of a former Lease, it not pur-
porting in the terms of it to be of itself a surrender. See 6 East's
Rep. 86.

If a landlord lease for seven years by parol, and agree that the ten-
ant shall enter at Lady-day, and quit at Candlemas: though the Lease
be void by the statute of Frauds as to the duration of the term, the
tenant holds under the terms of the Lease in other respects; and
therefore the landlord can only put an end to the tenancy at Cande-
mas. 5 Term Rep. 471.

Where the term of a Lease is to end on a precise day, there is no
occasion for a notice to quit; because the Lease is of course at an
end, unless the parties come to a fresh agreement. In the case of a
tenancy from year to year, there must be half a year's notice to quit
ending at the expiration of the year. Six calendar month's notice is not
sufficient. And there is no distinction between houses and lands as
to the time of giving notice to quit. 1 Term Rep. 54, 159. 162. 3.

Tenant from year to year before a mortgage or grant of the rever-
sion is entitled to six month's notice to quit, before the end of the
year, from the mortgagee or grantee. 1 Term Rep. 380, 2.

Where an infant becomes entitled to the reversion of an estate
leased from year to year, he cannot eject the tenant without giving
the same notice to quit as the original Lessor must have given. 3
Term Rep. 159. But ejectment will lie by a mortgagee against a ten-
ant, under a Lease from a mortgagor, made subsequent to the mort-
gage, without notice to quit. Doug! 21, Ketch v. Hall.

Where the tenant of an estate holden by the year has a dwelling-
house at another place, the delivery of a notice to quit, to his servant
at the dwelling-house, is strong presumptive evidence that the mas-
ter received the notice; and ought to be left to the Jury. 4 Term Rep.
464.

If notice to quit at Midsummer be given to a tenant holding from
Michaelmas, he may insist on the insufficiency of the notice at the
trial, though he did not make any objection at the time it was served.
4 Term Rep. 351.

Under a proviso that either the landlord or the tenant, or their re-
spective executors or administrators, might determine a Lease at
the end of 14 years, by 6 month's notice in writing under his or their
hands: a notice signed by two only of these executors on behalf of
themselves and the third executor, was held not to be good, although
the third executor joined in the ejectment. 5 East's Rep. 491.

II. The Enabling Statute, 32 Hert. 8 c. 28, empowers three man-
er of persons to make Leases, to endure for three lives, or one and
twenty years, which could not do so before. As first, Tenant in tail,
may by such Leases bind his issue in tail, but not those in remain-
der or reversion. Secondly, a husband seised in right of his wife, in
fee-simple or fee-tail, provided the wife joins in such Lease, may
bind her and her heirs thereby. Lastly, all persons seised of an estate
in fee-simple in right of their Churches, which extends not to par-
sons and vicars, may (without the concurrence of any other person)
bind their successors. But then many requisites must be observed,
which the statute specifies; otherwise such Leases are not binding.
Co. Litt. 44. 1st, The Lease must be by indenture and not by deed-poll
or parol. 2d, It must begin from the making, or day of the making, and
not at any greater distance of time. 3d, If there be any old Lease in be-
ing, it must be first absolutely surrendered, or be within a year of expiring. 4th, It must be either for twenty-one years, or three lives; and not for both. 5th, It must not exceed the term of three lives, or twenty-one years, but may be for a shorter time. 6th, Under this stat. 32 Hen. 8, it must have been of corporeal hereditaments, and not of such things as lie merely in grants; for no rent can be reserved thereout by the common law, as the Lessor cannot resort to them to distrain. But now by the statute, 5 Geo. 3. c. 17, a Lease of tithes or other incorporeal hereditaments, alone may be granted by any Bishop or any such ecclesiastical or Eleemosynary Corporation, and the successor shall be entitled to recover the rent by an action of debt; which (in case of a freehold Lease) he could not have brought at the common law. 7th, It must be of lands and tenements most commonly letten for twenty years past; so that if they had been let for above half the time (or eleven years out of the twenty) either for life, for years, at will, or by copy of court-roll, it is sufficient. 8th, The most usual and customary feorm or rent for twenty years past, must be reserved yearly on such Lease. 9th, Such Lease must not be made without impeachment of waste. These are the guards imposed by the statute (which was avowedly made for the security of farmers, and the consequent improvement of tillage) to prevent unreasonable abuses, in prejudice of the issue, the wife, or the successor, of the reasonable indulgence here given.

Next follows, in order of time, the Disabling or Restraining statute, 1 Eliz. c. 19; (made entirely for the benefit of the successor,) which enacts, that all grants by Archbishops and Bishops, (which include even those confirmed by the Dean and Chapter, the which, however long and unreasonable, were good at common law,) other than for the term of twenty-one years, or three lives from the making, or without reserving the usual rent, shall be void. Concurrent Leases, if confirmed by the Dean and Chapter, are held to be within the exception of this statute, and therefore valid; provided they do not exceed, together with the Lease in being, the term permitted by the act. Co. Litt. 45. But, by a saving expressly made, this statute of 1 Eliz. did not extend to grants made by any Bishop to the Crown; by which means Queen Elizabeth procured many fair possessions to be made over to her by the prelates, either for her own use, or with intent to be granted out again to her favourites, whom she thus gratified without any expense to herself. To prevent which for the future, the stat. 1 Jac. 1. c. 3, extends the prohibitions to grants and Leases made to the King, as well as to any of his Subjects. 11 Rep. 71.

Then came stat. 13 Eliz. c. 10. explained and enforced by stat. 14 Eliz. c. 11, 14: 18 Eliz. c. 11: 43 Eliz. c. 29; which extend the restrictions laid by the stat. 1 Eliz. c. 19, on Bishops, to certain other inferior Corporations both sole and aggregate. From laying all which together, we may collect, that all colleges, cathedrals, and other ecclesiastical or eleemosynary corporations, and all parsons and vicars, are restrained from making any Leases of their lands, unless under the following regulations:—1. They must not exceed twenty-one years or three lives, from the making. 2. The accustomed rent or more must be yearly reserved thereon. 3. Houses in corporations or market towns may be let for forty years, provided they be not the mansion-houses of the Lessors, nor have above ten
LEASE, II.

acres belonging to them; and provided the Lessee be bound to keep them in repair; and they may also be aliened in fee-simple for lands of equal value in recompence. 4. Where there is an old Lease in being, no concurrent Lease shall be made, unless where the old one will expire within three years. 5. No Lease, by the equity of the statute, shall be made without impeachment of waste. Co. Litt. 45, 6. All bonds and covenants tending to frustrate the provisions of the stats. 13 & 18 Eliz. shall be void.

Concerning these restrictive statutes two general observations are to be made. First, That they do not, by any construction, enable any persons to make such Leases as they were by common law disabled to make. Therefore a parson or vicar, though he is restrained from making longer Leases than for twenty-one years or three lives, even with the consent of the Patron and Ordinary, yet is not enabled to make any Lease at all, so as to bind his successor, without obtaining such consent. Co. Litt. 44. Secondly, that though Leases contrary to these statutes are declared void, yet they are good against the Lessor, during his life, if he be a Sole Corporation; and are also good against an Aggregate Corporation, so long as the Head of it lives, who is presumed to be most concerned in interest. For the statute was intended for the benefit of the successor only; and no man shall make an advantage of his own wrong. Co. Litt. 45: 2 Comm. c. 20.

Where a new thing is demised with lands accustomably let, though there be great increase of rent, the Lease is void: but more rent than the accustomed rent may be reserved. 5 Rep. 5: 6 Rep. 37. The Leases according to the statute 32 Hen. 8, bind the issue in tail; but not those in reversion or remainder: for if tenant in tail makes a Lease warranted by the statute, and dies without issue, the Lease as to him in reversion or remainder is void; though by a common recovery, Leases may be made to bind him in remainder; &c. Wood’s Inst. 267.

A guardian during the minority of an infant tenant in tail, who was but one year old, made a Lease for twenty years, and it was adjudged not good by the stat. 32 Hen. 8. c. 28, to bind the issue in tail; and it is the same in the case of tenant in dower, tenant by the curtesy, or husband seised in right of his wife, because they have no inheritance. Dyer 271.

If a Lease of the wife’s land is not warranted by the statute, it is a good Lease against the husband, though not against the wife: the husband and wife cannot bind him in reversion or remainder. 1 Inst. 362.

A Lease by the husband of a feme covert’s estate, though not within stat. 32 Hen. 8. c. 28, is only voidable. But a mortgage of a feme covert’s estate, though in form of a Lease, is void. Doug. 53, 4. in n.

If a Bishop have two Chapters, as there may be two or more to one bishoprick; both Chapters must confirm Leases made by the Bishop. 1 Inst. 131. A Lease by a Bishop made to begin presently for twenty-one years, when there is an old Lease in being, is good, notwithstanding the statute of 1 Eliz. c. 19: Moor Cas. 241. But if such Lease is to commence at a day to come it will be void. 1 Leon. 44. Lease for three lives by a Bishop of tithes, is void against the successor; although the usual rent be duly reserved. Moor Cas. 1078.

Leases of a Dean and Chapter are good, without confirmation of
the Bishop. *Dyer* 278: 2 Nels. *Abr.* 1096. Where there is a Chapter and no Dean, they may make grants, &c. and are within the statute. 1 *Mod.* 204. A prebendary is seised in right of the church within the equity of the statute 32 *Hen.* 8. c. 28: 4 *Leon.* 51. A prebendary's Lease confirmed by the Archbishop who is his patron, is good, without confirmation of Dean and Chapter. 3 *Bulstr.* 290. But where a prebendary made a Lease for years of part of his prebend, and this was confirmed by Dean and Chapter; because it was not confirmed likewise by the Bishop, who was patron and ordinary of the prebend, the Lease was adjudged void. *Dyer* 60. If a prebend hath rectories in two several dioceses belonging to his prebend, and his Lease of them is confirmed by the Bishop, Dean and Chapter of the diocese of which he is prebendary, it is good, though not confirmed by the other. *Sid.* 75.

A chancellor of a cathedral church may make a Lease, and it is said it will be good against the successor, though not confirmed, &c. *Sid.* 158. If a parson or vicar makes a Lease for life or years, of lands usually letten, reserving the customary rent, &c. it must be confirmed by Patron and Ordinary, for they are out of the statute 32 *Hen.* 8. c. 28. And if the Parson and Ordinary make a Lease for years of the glebe to the patron; and afterwards the patron assigns this Lease to another, such assignment is good, and is a confirmation of that Lease to the assignee. 5 *Ref.* 15. Antient covenants in former Leases may be good to bind the successor, so as to discharge the Lessee from payment of pensions, tenths, &c. but of any new matter they shall not. 1 *Vent.* 223.

A Lease for years of a spiritual person, will be void by his death, if it is not according to the statutes; and a Lease for life is voidable by entry, &c. of the successor; and so in like cases, Leases not warranted by statute are void or voidable on the deaths of their makers: acceptance of rent on a void Lease shall not bind the successor. 2 *Cro.* 173.

If a Bishop be not Bishop *de jure*, Leases made by him to charge the Bishoprick are void, though all judicial acts by him are good. 2 *Cro.* 353. And where a Bishop makes a Lease, which may tend to the diminution of the revenues of the Bishoprick, &c. which should maintain the successor; there the deprivation or translation of the Bishop, is all one with his death. 1 *Inst.* 329.

A Manor belonging to a Bishop's see, had been usually leased out for lives at a certain rent—the Bishop grants a Lease excepting the deemes, but reserving the whole of the former rent, and received only part of it in payment according to the proportion, deducting for the deemes excepted. The successor was held to be entitled to the full rent reserved under the Lease. *Dyke v. Bath and Wells, (Bishop,)* Part. Cases, tit. *Rent*, Case 1.

There is yet another restriction with regard to College-Leases by *stat.* 18 *Eliz.* c. 6, which direct that one-third of the old rent then paid, should for the future be reserved in wheat or malt; reserving a quarter of wheat for each 6s. 8d. or a quarter of malt for every 5s.; or that the Lessees should pay for the same according to the price that wheat and malt should be sold for, in the market next adjoining to the respective colleges, on the market day before the rent becomes due. This is said to have been an invention of Lord treasurer *Burleigh* and Sir *Thomas Smith*, then principal Secretary of State; who observing
how greatly the value of money had sunk, and the price of all provisions risen, by the quantity of bullion imported from the new-found Indies, which effects were likely to increase to a greater degree, devised this method for upholding the revenues of colleges. Their foresight and penetration have, in this respect, been very apparent; for though the rent so reserved in corn was at first but one-third of the old rent, or half of what was still reserved in money, yet now the proportion is nearly inverted, and the money arising from corn-rents is, communibus annis, almost double to the rents reserved in money. 2 Comm. c. 20.

It has been observed that the price of a quarter of wheat brings at present near 50s. and the colleges receiving one-third of their rent in corn, i.e., a quarter of wheat, or its value for every 13s. 4d. which they are paid in money; it follows, that the corn-rent will be in proportion to the money-rent, nearly as four to one. But these rents united are very far from the present value. Colleges, therefore, in order to obtain the difference, generally take a fine upon the renewal of their Leases. It was a great object in colleges to restrain those in possession from making long Leases, and impoverishing their successors, by receiving the whole value of the Lease, by a fine at the commencement of the term. The corn-rent has made the old rent approach in some degree nearer to its present value; otherwise it should seem the principal advantage of a corn-rent is to secure the Lessor from the effect of a sudden scarcity of corn. Christian's Note to 2 Comm. c. 20. p. 332.

The Leases of beneficed clergymen are farther restrained in case of their non-residence, by statutes. 13 Eliz. c. 20: 14 Eliz. c. 11: 16 Eliz. c. 11: 43 Eliz. c. 9; which direct, that if any beneficed clergymen be absent from his cure above fourscore days in any one year, he shall not only forfeit one year's profit of his benefice, to be distributed among the poor of the parish, but that all Leases made by him of the profits of such benefice, and all covenants and agreements of a like nature, shall cease and be void; except in the case of licenced pluralists, who are allowed to demise the living on which they are non-resident, to their curates only; provided such curates do not absent themselves above forty days in any one year. On these statutes it has been determined, that where an incumbent had leased his rectory, and had been afterwards absent for more than eighty days in a year, his tenant could not maintain an ejectment against a stranger who had got into possession without any right or title whatever. 2 Term Rep. 749. If the curate leases over, the Lease will become void by his absence; but not by the absence of the incumbent.—Gibbs. 740.

III. 1. If a Bishop before the statute 1 Eliz. c. 19. § 5, leased part of his bishoprick for term of years, reserving rent, and then died; and after another was made Bishop, who accepted and received the rent when due; by this acceptance the Lease was made good; which otherwise the new Bishop might have avoided. It is the same if baron and feme seised of lands in right of the feme, join and make a Lease or feoffment, reserving rent; and the baron dies, after whose death the feme receives or accepts the rent; by this the Lease or feoffment is confirmed, and shall bar her from bringing a cuio in vita. Co. Litt. 211. Tenant in tail made a Lease for years, rendering 20s. rent, and af-
LEASE, III. 115

...released 19s. and died; the issue in tail accepted the 12d. rent; the better opinion was, that by the acceptance of the shilling for rent he had affirmed the Lease, and could not distrain for the 19s. rent. Dyer 304. Tenant for life, remainder in tail; a stranger levies a fine to him in remainder, who leased the lands to the conusor, rendering rent, the tenant for life died, and the issue in tail accepted the rent; adjudged, that by the fine and acceptance of the rent, the Lease was affirmed. Dyer 299. See Smith v. Stoughton, Plov. 426, 434.

Lord and tenant; the rent is behind many years, the tenant made a feoffment in fee, and the lord accepted the rent of the feoffice which became due in his time; adjudged, that by such acceptance he shall lose all the arrearages; and cannot avow for the same. 3 Rep. 65. Penant's case. Lease for years, rendering rent, with a clause of re-entry; the Lessee paid the rent, which the Lessor accepted and put into a bag, but afterwards finding brass money amongst it, he refused to carry it away, and entered for the condition broken; but adjudged unlawful; because after he had accepted the rent he is barred. 5 Rep. 113; Wade's case.

Acceptance of the next rent due, at a day afterwards, will bar one to enter for a condition broken before by reason of non-payment of the rent; because the Lessor thereby affirmeth the Lease to have continuance. Co. Lit. 211. And taking a distress affirmeth the continuance of the rent; but if rent was due at a day before, and thereby the condition was broken, one may receive that rent, and yet re-enter; and if he accept of part of the rent, he may enter for a condition broken, and retain the lands until he has the whole rent. 3 Rep. 64: Co. Lit. 203.

If an infant accepts of rent at his full age, it makes the Lease good, and shall bind him. Plov. 418.

If a Lessor accepts of rent from an assignee, knowing of the assignment, it bars him from action of debt against the Lessee; for the privity of contract is extinguished: but after such acceptance, the Lessor or his assigns may maintain an action against the first Lessee upon his covenant for payment of the rent. 1 Saund. 241: 3 Rep. 24. But acceptance of rent from the assignee has been adjudged a sufficient notice of the assignment, so that the Lessor could not resort to the first Lessee. 2 Fülst. 151.

Lessee for years assigned his term, and died intestate, the Lessor brought debt against his administrator, who pleaded the assignment, and that the plaintiff had notice, and had accepted the rent of the assignee: adjudged, that by the death of the Lessee, the privity of contract was determined, and the action would not lie against the administrator. Cor. Eliz. 715: cited in Walker's case, 3 Rep. 24.

Tenant for life makes a Lease for years to commence on a certain day, and dies before the expiration of the Lease, in the middle of a year. The remainder-man receives rent from the Lessee, who continues in possession, (but not under a fresh Lease,) for two years together, on the days of payment mentioned in the Lease. This is evidence from which an agreement will be presumed between the remainder-man and the Lessee, that the Lessee should continue to hold from the day and according to the terms of the original demise; and notice to quiton that day is proper. 1 H. Black. Rep. C. P. 97.

2. If a Parson, &c. makes a Lease for years not warranted by the stat. 32 Hen. 8. c. 54, but it is void by his death; acceptance of rent by
LEASES.

a new parson or successor will not make it good. 1 Saund. 241. And
if a tenant for life makes a lease for years, there no acceptance will
make the Lease good, because the Lease is void by his death. Dyer
46, 239.

Tenant in tail made a Lease for years, rendering rent to him and
his heirs, and died; his son and heir accepted the rent, and was after-
wards executed for treason, leaving issue a son; the king accepted
the rent, but that did not make the Lease good, the lands being in
his hands by the attainder, and not in the reverter. Dyer 115. Lease
for years, with condition that the Lessee shall not alien or assign,
without the assent of the Lessor; and if he did, that then the Lessor
should re-enter: he assigned part of the land without assent, &c. and
then the Lessor, before notice of the assignment, accepts the rent, and
and afterwards entered for the condition broken; and adjudged law-
ful; for the condition being collateral, he might assign the land so se-
cretly, that it may be impossible for the Lessor to know it. 3 Rep.
65, Penant’s Case: Cro. Eliz. 553. S. C.

Lease for twenty-one years, rendering rent, on condition, that if
the Lessee did let any part of it above three years, then the Lease
may be void, and that the Lessor might enter; he let it out for three
years, and so from three years to three years, during the term of
twenty-one years, if he so long lived; the Lessor accepted the rent of
the assignee, and afterwards entered: this was a breach of the condi-
tion, and the acceptance of it afterwards did not dispense with it, be-
cause the original Lease was void and determined. Cro. Car. 368.
If tenant in tail make a Lease for years to commence after his death,
rendering rent, in such case acceptance of rent by the Issue will not
make the Lease good to bar him, because the Lease did not take ef-
effect in the life of his ancestor. Plowd. 418.

Where one in remainder, after the expiration of an estate for life,
gave notice to the tenant to quit on a certain day, and afterwards ac-
cepted half a year’s rent; such acceptance being only evidence of a
holding from year to year is butted by the previous notice to quit,
and therefore the notice remains good. See 1 Term Rep. 161.

The Lessor’s receiving rent after a forfeiture is no waiver, unless
the forfeiture were known to him at the time. 2 Term Rep. 425.

A Lease void in its creation as against a remainder-man, does not
become valid in law by his accepting rent, and suffering the Lessee
to make improvements after his remainder vests in possession;
though it seems that in such case equity would afford relief. See
Dwy v. Butcher. Douglt. 50—54, in n.

Where a Lease is ipso facto void by the condition or limitation, no
acceptance of rent afterwards can make it have continuance as be-
tween the grantor and grantee; but it is otherwise of a Lease voida-
ble only. See Douglt. 578, in n.

LEASES OF THE KING. Leases made by the King, of part of
the duchy of Cornwall, are to be for three lives, or thirty-one years,
and not be made dispensable of waste, whereon the antient rent
is to be reserved; and estates in reversion, with those in possession,
are not to exceed three lives, &c. See stat. 13 Car. 2. c. 4.

All Leases and grants made by letters patent, or indentures under
the great seal of England, or seal of the Court of Exchequer, or by
copy of court-roll, according to the custom of the manors of the duchy
of Cornwall, not exceeding one, two, or three lives, or some term de-
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terminable thereon, &c. are confirmed; and covenants, conditions,
&c. in Leases for lives or years, shall be good in law, as if the King
were seised in fee-simple. Stat. 1 Jac. 2. c. 9. See stats. 5 & 6 W. &
M. c. 18: 12 Ann. c. 22. Leases from the Crown of lands in England
and Wales, and under the seals of the duchy of Lancaster, &c. for one,
$\text{two, or} \ \text{and}$
and it is necessary to distinguish in what respect it operates
Wales, were seised, and isfc., are annexed the
necessary to distinguish in what respect it operates
LEASE AND RELEASE. A conveyance of the fee-simple, right
or interest in lands or tenements, under the statute of Uses, 27 H.
8. c. 10; giving first the possession, and afterwards the interest, in
the estate conveyed. Though the deed of feoffment was the usual
conveyance at common law; yet, since the statute of Uses, stat. 27
Hen. 8. c. 10, the conveyance by Lease and Release has taken place
of it, and is become a very common assurance to pass lands and tenen-
tments; for it amounts to a feoffment, the use drawing after it the pos-
session without actual entry, &c. and supplying the place of livery
and seizin, required in that deed: in the making it, a Lease or bar-
gain and sale for a year, or such like term, is first prepared and exe-
cuted; "to the intent," as is expressed in the deed, "that by virtue
thereof the Lessee may be in actual possession of the land intended
to be conveyed by the Release; and thereby, and by force of the sta-
tute 27 Hen. 8. c. 10, for transferring of uses into possession, be
enabled to take and accept a grant of the reversion and inheritance
of the said lands, &c. to the use of himself and his heirs for ever:" Up-
on which the Release is accordingly made, reciting the Lease, and
declaring the uses: and in these cases a pepper-corn rent in the
Lease for a year is a sufficient reservation to raise an use, to make
the Lessee capable of a Release. 2 Vent. 35: 2 Mod. 262.
Blackstone says, this species of conveyance was first invented by
Serjeant Moore, soon after the Statute of Uses; and is now the most
common of any, and therefore not to be shaken; though very great
lawyers, as particularly Mr. Noy, Attorney-general to King Charles
I. formerly doubted its validity. 2 Mod. 252. It is thus contrived: a
Lease, or rather Bargain and Sale upon some pecuniary considera-
tion for one year, is made by the tenant of the freehold, to the Lessee
or bargainee. Now this, without any enrollment, makes the bargai-
nor stand seised to the use of the bargainee, and vests in the bargainee
the use of the term for a year; and then the statute immediately
annexes the possession. He therefore being thus in possession is ca-
pable of receiving a Release of the freehold and reversion; which
must be made to a tenant in possession, and accordingly the next
day a Release is granted to him. This is held to supply the place of
livery of seizin, and thus a conveyance by Lease and Release is said
The form of this conveyance is originally derived to us from the
common law; and it is necessary to distinguish in what respect it ope-
rates as a common-law conveyance, and in what manner it operates
under the statute of Uses. At the common law, where the usual mode of conveyance was by feoffment with livery of seisin, if there was a tenant in possession, so that livery could not be made, the reversion was granted, and the tenant attorned to the reversioner. As by this mode the reversion or remainder of an estate might be conveyed without livery, when it depended on an estate previously existing, it was natural to proceed one step further, and to create a particular estate for the express and sole purpose of conveying the reversion; and then by a surrender or Release, either of the particular estate to the reversioner, or of the reversion to the particular tenant, the whole fee vested in the surrenderee or Release. It was afterwards observed, that there was no necessity to grant the reversion to a stranger; and that if a particular estate was made to the person to whom it was proposed to convey the fee, the reversion might be immediately released to him, which Release, operating by way of enlargement, would give the Releasee (or Relesee as he is sometimes termed) a fee. In all these cases the particular estate was only an estate for years; for at the common law the ceremony of livery of seisin is as necessary to create even an estate of freehold, as it is to create an estate of inheritance. Still an actual entry would be necessary on the part of the particular tenant; for without actual possession the Lessee is not capable of a Release, operating by way of enlargement. But this necessity of entry for the purpose of obtaining the possession, was superseded or made unnecessary by the statute of uses (27 Hen. 8. c. 10, above alluded to); for by that statute the possession was immediately transferred to the Cestui que use; so that a bargainee under that statute is as much in possession, and as capable of a Release before or without entry, as a Lessee is at the common law after entry. All, therefore, that remained to be done to avoid on the one hand the necessity of livery of seisin from the grantor, and to avoid on the other the necessity of an actual entry on the part of the grantee, was, that the particular estate (which, for the reasons above mentioned, should be an estate for years) should be so framed as to be a bargain and sale within the statute. Originally it was made in such a manner as to be both a Lease at the Common Law, and a bargain and sale under the Statute; but as it is held, that where conveyances may operate both by the Common Law and Statute, they shall be considered to operate by the Common Law, unless the intention of the parties appears to the contrary, it became the practice to insert, among the operative words, the words Bargain and Sell; (in fact, it is more accurate to insert no other operative words;) and to express that the bargain and sale, or Lease, is made to the intent and purpose that thereby, and by the statute for transferring uses into possession, the Lessee may be capable of a Release. The bargain and sale therefore, or Lease for a year, as it is generally called, operates, and the bargainee is in the possession, by the statute. The Release operates by enlarging the estate or possession of the bargainee to a fee. This is at the Common Law; but if the use be declared to the Releasee in fee-simple, it continues an estate at the Common Law; but if the use is declared to a third person, the statute again intervenes, and annexes or transfers the possession of the Releasee to the use of the person to whom the use is declared. It has been said, that the possession of the bargainee un-
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der the Lease is not so properly merged in, as enlarged by, the Re-
lease; but at all events it does not, after the Release, exist distinct
from the estate passed by the Release. 1 Inst. 271. b. in n. See tit.
Release I.

As the operation of a Lease and Release depends upon the Lease,
or bargain and sale; if the grantor is a Body Corporate, the Lease
will not operate under the statute of uses; for a Body Corporate can-
not be seised to an use, and therefore the Lease of possession, con-
sidered as a bargain and sale under the statute, is void; and the Re-
lease then must be of no effect for want of a previous possession in the
Releasee. In cases of this nature, therefore, it is proper to make the
conveyance by feoffment, or by a Lease and Release with an actual
entry by the Lessee previous to the Release; after which the Re-
lease will pass the reversion. It may also be observed, that in ex-
changes, if one of the parties die before the exchange is executed by
entry, the exchange is void. But if the exchange be made by Lease
and release, this inconvenience is prevented, as the statute executes
the possession without entry; and all incidents annexed to an ex-
change at Common Law will be preserved. 1 Inst. 271. b. in n.

When an estate is conveyed by Lease and Release, in the Lease
for a year there must be the words bargain and sell for money, and
five shillings or any other sum, though never paid, is a good consi-
deration, whereupon the bargainee for a year is immediately in pos-
session on the executing of the deed, without actual entry: if only
the words demise, grant and to farm let are used, in that case the
Lessee cannot accept of a Release of the inheritance, until he hath
actually entered, and is in possession. 2 Lit. Abr. 435. But where
Littleton says, that if a Lease is made for years, and the Lessor re-
leases to the Lessee before entry, such Release is void; because the
Lessee had only a right, and not the possession; and such Release shall
not enure to enlarge the estate, without the possession: though this is
true at Common Law, it is not so now upon the statute of uses. 2 Mod.
250, 251. And if a man make a Lease for life, remainder for life,
and the first Lessee dieth; on which the Lessor releases to him in
remainder, before entry; this is a good Release to enlarge the estate,
having an estate in law capable of enlargement by Release, be-
fore entry had. 1 Inst. 270.

No person can make a bargain and sale, who hath not possession
of the lands: but it is not necessary to reserve a rent therein; because
the consideration of money raises the use. If a Lease be without any
such consideration the Lessee hath not any estate till entry, nor hath
the Lessor any reversion; and therefore a release will not operate, &c.
1 Inst. 270, 278: Cro. Car. 169: 1 Mod. 263. On Lease at will, a Re-
lease shall be good by reason of the privity between the parties; but
if a man be only tenant at sufferance, the Release will not enure to
him; and as to the person who hath the reversion it is void, for such
tenant hath not any possession, there being no estate in him. Litt. §

In a Lease and Release, to make a tenant to the præcipe to suffer
a recovery, where the release is made to A. B. and his heirs, (viz.
the tenant to the præcipe,) it must be also said to the use of him the
said A. B. and his heirs and assigns forever; for the Relessee must
be absolute tenant of the freehold. 2 Vent. 312: Lit. Conveyance, 251.
And a Release made on trust, must be to A. B. his heirs and assigns.
to the only use and behoof of the Releasee, his heirs and assigns for ever; in trust for C. D. who is to be a party to the deed, and the purchase money to be paid by the cestui que trust. If the words to the use, &c. are not inserted in the Release, the estate doth not execute by the statute of uses, and the trust is void. *Lil. Convey.* 233, 251. See titles Recovery; Trust.

A Lease and Release make but one conveyance, being in the nature of one deed. 1 *Mod.* 252.

For further information as to the principles in which this form of conveyance originates, and under which it operates, see this Dictionary, titles Conveyance; Deed; Feoffment; Trusts; Uses; &c.

**LEASING or LESING,** See Gleaning.

**LEAT:** See *Milleet.*

**LEATHER.** There are several statutes relating to Leather: the *stat.* 27 *Hen.* 8. c. 14, directs packers to the appointment of Leather intended to be transported; but the 18 *Eliz.* c. 9, prohibits the shipping of Leather, on penalty of forfeiture, &c. Though by *stat.* 20 *Car.* 2. c. 5, transportation of Leather was allowed to *Scotland,* *Ireland,* or any foreign country, paying a custom or duty; which statute was considered by divers subsequent acts. See *stat.* 1 *Jac.* 1. c. 22; and this Dictionary, title Navigation Acts. No person shall ingross Leather to sell again, under the penalty of forfeiture; none but tanners are to buy any rough hides of Leather, or calve-skins in the hair, on pain of forfeiture; and no person shall forestall hides, under the penalty of 6s. 8d. a hide. Leather not sufficiently tanned, is to be forfeited. In *London,* the Lord Mayor and Aldermen are to appoint and swear searchers of Leather, out of the Company of shoemakers, &c. and also triers of sufficient Leather; and the same is to be done by mayors, &c. in other towns and corporations; and searchers allowing insufficient Leather, incur a forfeiture of 40s. Shoemakers making shoes of insufficient Leather, are liable to 3s. 4d. penalty. *Stat.* 1 (or 2) *Jac.* 1. c. 22. (suspended as to regrating of skins by 46 *G.* 3. c. 152, &c.)

Red tanned Leather is to be brought into open Leather markets, and searched and sealed before exposed to sale, or shall be forfeited; and contracts for sale otherwise to be void. 13 & 14 *Car.* 2. c. 7. Hides of Leather are adjudged the ware and manufacture of the currier, and subject to search, &c. All persons dealing in Leather may buy tanned Leather searched in open market; and any person may buy or sell Leather hides or skins by weight. *Stat.* 1 *W.* & *M.* c. 33. Duties are granted on Leather, and entries to be made of tan-yards, under the penalty of 50l. and tanners and Leather-dressers using any private tan-yards, or concealing skins, &c. shall forfeit 20l. leviable by Justices of Peace, by distress, &c. *Stats.* 9 *Ann.* c. 11. See 5 *Geo.* 1. c. 2; 9 *Geo.* 1. c. 27. Artificers may freely buy their Leather, and cut it and sell it in small pieces. 12 *Geo.* 2. c. 23. Penalty on curriers neglecting to curry Leather. *Ibid.* By stats. 39, 40 *G.* 3. c. 66: 41 *G.* 3. (U. K.) c. 53. Regulations are made to prevent the spoiling of hides and Leather, by the slaying animals injudiciously; and Inspectors appointed to insure the execution of the Law. See this Dictionary, titles Hides; Tanners; Manufacturers.

**LECCATOR,** A debauched person, Leather, or whore-master.

**LECHERWITE,** See *Lairwite.*
LECTISTERNIUM, A bed, sometimes all that belongs to a bed. 


LECTURER, Praelector.] A reader of lectures. In London, and 
other cities, there are Lecturers who are assistants to the rectors of 
churches in preaching; &c. These Lecturers are chosen by the Ves-
try, or chief inhabitants of the parish, and are usually the afternoon 
preachers; the law requires that they should have the consent of 
those by whom they are employed, and likewise the approbation and 
admission of the ordinary; and they are, at the time of their admis-
sion, to subscribe to the thirty-nine articles of religion, &c. required 
by the stat. 13 & 14 Car. 2. c. 4. They are to be licensed by the 
Bishop, as other ministers, and a man cannot be a Lecturer without 
a license from a Bishop or Archbishop; but the power of a Bishop, 
&c. is only as to the qualification and fitness of the person, and not as 
to the right of the Lectureship; for if a Bishop determine in favour of a 
Lecturer, a prohibition may be granted to try the right. Mich. 12 W. 
3. B. R. If Lecturers preach in the week-days, they must read the 
common prayer for the day when they first preach, and declare their 
assent to that book; they are likewise to do the same the first Lect-
ture-day in every month, so long as they continue Lecturers, or they 
shall be disabled to preach till they conform to the same: and if they 
preach before such conformity, they may be committed to prison for 
three months, by warrant of two Justices of Peace, granted on the 
certificate of the Ordinary. Stat. 13 & 14 Car. 2. c. 4.

Where Lectures are to be preached or read in any cathedral or 
collegiate church, if the Lecturer openly, at the time aforesaid, de-
clare his assent to all things in the book of Common Prayer, it shall 
be sufficient; and university sermons or Lectures, are excepted out 
of the act concerning Lecturers. There are Lectures founded by the 
donations of pious persons, the Lecturers whereof are appointed by 
the founders; without any interposition or consent of rectors of 
churches, &c. though with the leave and approbation of the Bishop; 
such as that of Lady Moier at St. Paul's, &c. But such is not enti-
tled to the pulpit without the consent of the Rector, or Vicar, in 
whom the freehold of the church is. Cases B. R. 420, 433.

The Court of B. R. will not grant a mandamus to a Bishop to li-
cence a Lecturer without the consent of the Rector, where the Lect-
urer is supported by voluntary contributions, unless an immemorial 
custom to elect without such consent is shewn. R. v. London, (Bp.) 
1 Term Rep. 331. Nor will that Court grant a Mandamus to the 
Rector, to certify to the Bishop the election of a Lecturer, chosen 
by the inhabitants, where no such custom is shewn, though the Lect-
urer has been paid out of the poor rates. But such immemorial cus-
tom, if in fact it exists, is binding on the Rector. 4 Term Rep. 125. 
R. v. Field.

LECTURERS of Divinity, Law, Physick, &c. in the universities 
of Oxford and Cambridge; Vide Regius Professor.

LECTURNIUM, lectorium.] The desk or reading place in 

LEDGRAVE or LEDGREVE, See Lathreve.

LEDO, ledona.] The rising water or increase of the sea.

LEET or COURT-LEET; See title Court-Lect.

Vol. IV.
LEETS or LEITS, Meetings appointed for the nomination or election of officers; often mentioned in Archbishop Spotswood's History of the Church of Scotland.

LEGA or LACTA. Antiently the alay of money was so called.

LEGABILIS, Signifies what is not entailed as hereditary; but may be bequeathed by Legacy, in a last will and testament. Articula proposita in parliamento coram Rege; Anno 1234.

LEGACY.

LEGATUM.] A bequest, or gift of goods and chattels by will or testament: the person to whom it is given is styled the Legatee: and if the gift is of the residue of an estate after payment of debts and Legacies, he is then styled the Residuary Legatee.

This Bequest transfers an inchoate property to the Legatee; but the Legacy is not perfect without the assent of the executor; for if one has a general or pecuniary Legacy of 100l., or a specific one of a piece of plate, he cannot in either case take it without the consent of the executor. For in him all the chattels are vested; and it is his business first of all to see, whether there is a sufficient sum left to pay the debts of the testator. See Co. Litt. 111: Aegyn. 39: Bract. 1. 2. c. 26. But if there is a fund to pay the debts, and the executor then refuses his assent to a Legacy, he may be compelled to give it, either by the Spiritual Court, or by a Court of equity. March, Refh. 19.

In case of a deficiency of assets, all the general Legacies must abate proportionally, in order to pay the debts; but a specific Legacy (of a piece of plate, a horse, or the like) is not to abate at all, or allow any thing by way of abatement, unless there be not sufficient without it. 2 Vern. 111. Upon the same principle, if the Legatees have been paid their Legacies, they are afterwards bound to refund a rateable part in case debts come in, more than sufficient to exhaust the residue after the Legacies paid. 2 Vern. 205.

If the Legatee dies before the Testator, the Legacy is a lost or lapsed Legacy, and shall sink into the residue. And if a contingent Legacy be left to any one, as when he attains, or if he attains the age of twenty-one, and he dies before that time, it is a lapsed Legacy. Dy. 59: 1 Eq. Ab. 293. But a Legacy to one to be paid when he attains the age of twenty-one years, is a vested Legacy; an interest which commences in praesenti although it be solvendum in futuro: and if the Legatee dies before that age, his representatives shall receive it out of the testator's personal estate, at the same time that it would have become payable in case the Legator had lived. This distinction is borrowed from the civil law; and its adoption in our Courts is not so much owing to its intrinsic equity, as to its having been before adopted by the Ecclesiastical Courts. For since the Chancery has a concurrent jurisdiction with them, in regard to the recovery of Legacies, it was reasonable that there should be a conformity in these determinations; and that the Subject should have the same measure of justice in whatever Court he sued. 1 Eq. Ab. 295. But if such (contingent) Legacies be charged upon a real estate, in both cases they shall lapse for the benefit of the heir; for with regard to devises affecting lands, the Ecclesiastical Court hath no concurrent jurisdiction. 2 P. Wms. 601, 610. And in case of a vested Le-
gacy due immediately, and charged on land, or money in the funds, which yield an immediate profit, interest shall be payable thereon from the testator's death; but if charged only on the personal estate, which cannot be immediately got in, it shall carry interest only from the end of the year after the death of the testator. 2 P. Wms. 26, 7.

Besides the formal Legacies contained in a man's will and testament, there is also permitted another death-bed disposition of property; which is called a donation, causa mortis; a gift in prospect of death. And that is, when a person in his last sickness, apprehending his dissolution near, delivers, or causes to be delivered, to another the possession of any personal goods, (under which have been included bonds and bills drawn by the deceased upon his banker,) to keep in case of his decease. This gift, if the donor dies, needs not the assent of his executors; yet it shall not prevail against creditors; and is accompanied with this implied trust, that if the donor lives, the property thereof shall revert to himself, being only given in contemplation of death; mortis causa. Pre. Ch. 269: 1 P. Wms. 406, 441: 3 P. Wms. 357. See 2 Vez. 431.

As this donation may be avoided by creditors, so may it by the wife or children of a freeman, if it break in on their customary shares. 2 Vern. 619. The delivery of receipts for South-Sea annuities does not amount to a gift of the annuities themselves. Ward v. Turner, 2 Vez. 442. It is undecided whether the delivery of a mortgage deed will amount to a gift of the money due on the security. See Richards v. Symns, cited 2 Vez. 436: Hassell v. Tynte, Amb. 318. There may be a donation causa mortis of bonds, bank notes, and bills payable to bearer: but not of other promissory notes or bills of exchange, those being choses in action which do not pass by delivery. See 2 Vez. 431. Ward v. Turner, which case collects all the laws on the subject of donations causa mortis, and particularly considers what shall be a sufficient delivery of different kinds of property to give effect to such Donations.

One cannot sue in the Spiritual Court for a donation causa mortis. 2 Stra. 777. See further this Dictionary, title Donation causa mortis.

Having said thus much on the subject of Legacies in general, we may proceed more particularly to inquire,

1. Who may be Legatees; of latent and wasted Legacies, and of the admittance of Legacies.
2. Of the Payment of Legacies; and herein of Specific Legacies.
3. Of Interest on Legacies.
4. Of Suits to recover Legacies.
5. Of Devices to Creditors, &c. in satisfaction of Demands due from the Testator.—Of Legacies to Executors in satisfaction of the Residue, See title Executor, V. 8.

1. It seems necessary, that a Legatee should be born at the time of making the will; and it has been adjudged, where Legacies were given to a man's children, that those who were born afterwards should have no share thereof. 1 Bulst. 153. But it has been otherwise decreed in Chancery. 1 Ch. Ref. 301.

The name of a Legatee being very falsely spelt, it was referred to a master in Chancery, to examine who was the person intended. 1 P. Wms. 425. Some persons are incapable of taking by Legacy, under several statutes; as in Stat. 13 W. 3. c. 6, Officers, Counsellors,
Lawyers, &c. not taking the oaths; and 5 Geo. 1. c. 27, Artificers going abroad, &c. See further who may be Devises, this Dictionary, title Will.

The general rule is, that if a Legatee die before the Testator, or before the condition upon which the Legacy is given be performed, or before it be vested in interest, the Legacy is extinguished. Treat. Eq. lib. 4. pt. 1. c. 2. § 3.—But a bequest may be so specially framed as to prevent the death of the Legatee operating a lapse of the Legacy. See 3 Atk. 572, 580.—Neither will the rule extend to a Legacy to two or more; for though, by the civil law, there is no survivorship amongst Legatees, yet it is settled that a Legacy to two or more jointly is not extinguished by the death of one, but will vest in the survivor. Gilb. Rep. 137: 2 Atk. 220.—But where the Legacy is to two or more severally, or to be divided share and share alike, and one dies, his share will lapse. See 1 P. Wms. 700: 2 P. Wms. 489: 2 Stra. 820, and the notes there.—Nor will the rule extend to those cases where the Legacy is given over after the death of the first Legatee; for in such cases the Legatee in remainder shall have it immediately. 1 And. 33: pl. 82: 2 Vern. 207: 1 P. Wms. 274: 3 P. Wms. 113: Prec. Ch. 37: Morel. 319: 2 Vern. 378.—Nor will a Legacy lapse by the death of a Legatee in the testator's life-time, if he be to take as a trustee. See 1 Vez. 140: and 2 Vern. 468, in which latter case the point is doubted.

Where a father makes a provision for a child by his will, and afterwards gives to such child, being a daughter, a portion in marriage; or, being a son, a sum of money to establish him in life, (such portion or sum being in amount equal to, or greater than the Legacy,) it is an implied ademption of the Legacy; for the law will not intend that the father designed two portions to one child. 1 P. Wms. 680: 2 Ch. Ref. 85: 2 Vern. 113, 257: 2 Atk. 216: Ambt. 325: 2 Bro. C. R. 307.—But this implication will not arise, if the provision by the will be by bequest of the residue. 2 Atk. 216— or if the provision in the father's life-time be subject to a contingency; 2 Atk. 491: — or be not ejusdem generis with the Legacy; 1 Bro. C. R. 425: — or if the testator be a stranger; 2 Atk. 516: 2 Bro. C. R. 499: And such implication is always liable to be refuted by evidence. 2 Atk. 516: 2 Bro. C. R. 165, 519.

A man devised 200l. a piece to the two children of A. B. at the end of ten years after the death of the testator; afterwards the children died within the ten years; and it was held a lapsed Legacy: for there is a difference where a devise is to take effect at a future time, and where the payment is to be made at a future time; and whenever the time is annexed to the Legacy itself, and not to the payment of it, if the Legatee dies before the time happens, it is a lapsed Legacy. 2 Sak. 415. A bequest of money to one at the age of twenty-one, or day of marriage, without saying to be paid at that time, and the Legatee dies before the term; this is a lapsed Legacy: And so it is if the devise had been to her when she shall marry; or when a son shall come of age, and they die before. Goth. 182: 2 Vern. 342.

But a devise of a sum of money, to be paid at the day of marriage, or age of twenty-one years, if the Legatee die before either of these happen, the Legatee's administrator shall have it, because the Legatee had a present interest, though the time of payment was not yet come; and it is a charge on the personal estate which was in be-
ing at the testator’s death; and if it were discharged by this accident, then it would be for the benefit of the executor, which was never intended by the testator. 2 Vent. 366: 2 Lev. 207. A father bequeathed goods to his son, when he should be of the age of twenty-one years, and if he die before that time, then his daughter should have them; afterwards the father died, and then the son died before he was of age; adjudged, that the daughter shall have the goods given in Legacy immediately, and not stay till her brother would have been of age, if he had lived. 1 Aud. 33. And where a Legacy was devised to an infant, to be paid when he shall come of age, and he died before that time; it was ruled that his administrator should have it presently, and not stay till the infant should have been of age, if he had lived. 1 Leon. 278. In a case of this nature, it has been decreed in equity, that although the administrator should have the Legacy, yet he must wait for it till such time as the child would have come to twenty-one. 2 Vern. 199.

That if the Legacy be to the Legatee payable to him at a certain age, and the Legatee die before he attain such age, this is a vested and transmissible interest in the Legatee; see 2 Vent. 342: 2 Ch. Ca. 155: 1 Vern. 462: 3 P. Wms. 138: 2 Vern. 199.—Otherwise, if the Legacy be to the Legatee generally, at or when he attains such age, 2 Vent. 342: 2 Salk. 415: 1 Eq. Ab. 293, 5; and see 1 Bro. C. R. 119.—If the Legacy be made to carry interest, though the words to be paid, or payable, are omitted, it is a vested and transmissible interest. 2 Vent. 342: 2 Ch. Ca. 155: 2 Vern. 673: 2 Vez. 263: 3 Atk. 643. So if the bequest be to A. for life, and after the death of A. to B. the bequest to B. is vested upon the death of the testator; and will not lapse by the death of B. in the life-time of A. 2 Vent. 347: 1 P. Wms. 566: 2 Vern. 378: Ambt. 167: 1 Bro. C. R. 119: and the notes there. 1 Bro. C. R. 181.

Where a Legacy is to arise out of the real estate, it shall not go to the representative of the Legatee; but sink in the inheritance. And yet where 1000l. was given by a person out of lands, to his daughter, and interest to be computed from his death, &c. here, though the Legatee died before the time appointed for paying the same, it was held the Legacy should be raised notwithstanding; and the Lord Chancellor said, that this Legacy was a vested one. 2 Vern. Rpf. 617: Barnardist. 328, 330. A person by will, &c. gives a portion or Legacy to a child, payable at twenty-one years of age, out of a real and personal estate, and the child dies before the Legacy becomes payable; in that case, so much thereof as the personal estate will pay, shall go to the child’s executors and administrators; but so far as the Legacy is charged upon the land, it is said shall sink. 2 Peere Williams 613. Also if a Legacy be given to one to be paid out of such a fund, and the same fails, it has been resolved, that it ought to be paid out of the personal estate; and the failing of the manner appointed for payment shall not defeat the Legacy. 1 P. Wms. 779.

2. If a Legacy when due be paid to the father of an infant, it is no good payment; and the executor may be obliged in equity to pay it over again; and where any Legacy is bequeathed to a femme covert, paying it to her alone is not sufficient, without her husband. 1 Vern. 261.

Executors are not bound to pay a Legacy, without security to refund, Chan. R. 149, 237. And if sentence be given for a Legacy in
the Ecclesiastical Court, a prohibition lies, unless they take security to refund. 2 Venr. 358. If an executor pays Legacies, and, seven years after, covenant is broken, for which action is brought against the executor; the court inclined that it was a Devastavit, and that the executor ought to have taken security for his indemnity upon payment of the Legacies. Allen 38. Though it has been adjudged that a covenant is no duty till broken; and therefore since it is uncertain whether it will be broken or not, it shall be presumed it will not; and the Legacies being a present duty, shall be paid by the executor, notwithstanding any covenant not actually broken. Style 37: 1 Nelson. Ab. 786. If one binds himself and his executors in an obligation, &c. to perform a certain thing, and in his will gives divers Legacies, and dies, leaving goods only sufficient to pay the obligation when forfeited, this obligation shall be no bar to the Legacies, because it is uncertain whether the same may ever be forfeited; though the executor may therefore make a delivery upon condition, viz. to return the Legacies if the obligation becomes forfeited, and the penalty be recovered. 1 Roll. Ab. 926: 2 Venr. 358.

The executor is to pay the Legacies after the debts: but executors cannot in equity pay their own Legacies first, where there is not enough to pay all of them, but shall have an equal proportion with the rest of the Legatees. Chan. R. 354. An executor has election, where any chattel is given to him, to have and take it in one right or the other, viz. as executor, or Legatee, which is to be made by a special taking, or declaration, &c. 10 Rep. 47: Plowd. 519: Dyer 277.

If there be a specific Legacy given of any thing, as a horse, silver cup, &c. it must be delivered before any other Legacy, provided there be assets. Offic. Exec. 317. And if there be enough to pay all the Legacies after the debts are satisfied, the Legacies shall all be paid; but if there is not sufficient to pay debts or more, the Legatees must lose their Legacies, or a proportionable part of them. Plowd. 526: See 1 Lit. Ab. 579.

A specific Legacy is, where, by the assent of the executor, the property of the Legacy will vest—As there is a benefit one way to a specific Legatee, that he shall not contribute, (in case of a deficiency to pay all the Legacies,) so there is a hazard the other way—for instance, if such specific Legacy, being a lease, be evicted; or, being goods, be lost or burnt; or, being a debt, be lost by the insolvency of the debtor; in all those cases such specific Legatee shall have no contribution from the other Legatees, and therefore shall pay none towards them. Hinton v. Pinke, 1 P. Wms. 539.

These consequences attending a specific Legacy have raised, in the several cases to be met with in the books, the question, whether a Legacy was specific or general.—A specific Legacy (strictly speaking) is said by Lord Hardwicke in Purse v. Snaplin, 1 Atk. 417, to be a bequest of a particular chattel, specifically described and distinguished from all other things of the same kind; or, in other words an individual Legacy.—Money, therefore, if sufficiently distinguished, may be the subject of a specific bequest; as money in a certain chest, &c. Lawson v. Stitch, 1 Atk. 508; or a particular debt; as to the ademption of which latter by payment in the testator's life-time, See Thomond (E.) v. Suffolk (E.), 1 P. Wms. 461.—So of Stock in Ashton v. Ashton, Talb. 152; Avelyn v. Ward, 1 Vez. 424; Drinkwater v. Fal-
So a bequest of a part of a specific chattel may be equally a specific Legacy. 3 Atk. 103.

But the Legatees of specific parts, though not liable to abatement with general Legatees, yet must abate, proportionally among themselves upon deficiency of the specific thing bequeathed. Sleech v. Thorington, 2 Vez. 563; or on deficiency of the general assets for payment of debts. Long v. Short, 1 P. Wms. 403.—So specific Legates of distinct chattels shall abate proportionally on a deficiency of general assets. Devon (D.) v. Atkins, 2 P. Wms. 382.

On the other hand, a mere bequest of quantity, whether of money or any other chattel, is a general Legacy; as of a quantity of Stock: Purse v. Snaplin, 1 Atk. 414; Sleech v. Thorington, 2 Vez. 562; and where the testator has not such Stock at his death, it is a direction to the executor to procure so much Stock for the Legatee, Partridge v. Partridge, Talb. 227.—So the purpose to which a general Legacy is to be applied will not alter its nature; as in the case of Hinton v. Pinke, 1 P. Wms. 539. Personal annuities given by will are general Legacies, Hume v. Edwards, 3 Atk. 693; Lewin v. Lewin, 2 Vez. 417. How far a Legacy of money, to be paid out of a certain fund, shall be adeimed by the failure of the fund, see Savile v. Blackett, 1 P. Wms. 778; 2 P. Wms. 330, Mr. Cox's Note (1): And see Treat. Eq. lib. 4, pt. 1. c. 2, § 5. in n.

A sum bequeathed out of a debt must be paid though the debt is recovered by the testator; otherwise of a bequest of the debt itself. 2 Str. 824.

As an executor is not obliged to pay a Legacy without security given him by the Legatee to refund, if there are debts, because the Legacy is not due till the debts are paid, and a man must be just before he is charitable; so in some case, the executor may be compelled to give security to the Legatee for the payment of his Legacy; as where a testator bequeathed 1000l. to a person, to be paid at the age of twenty-one, and made an executor, and died; afterwards the Legatee exhibited a bill in equity against the executor, setting forth that he had wasted the estate, and praying that he might give security to pay the Legacy when it should become due; and it was ordered accordingly. 1 Ch. Rep. 136, 257. See post, 4.

By various Stamp-acts duties ad valorem have from time to time been imposed on receipts given for payment of Legacies; and these extend now as well to Legacies secured on real as on personal property. For the amount of these stamps the executor is made liable, and it is his duty not to pay a Legacy without a receipt duly stamped. The stamp is from 1l. up to 10l. per cent. (in Great Britain, and from 10s. to 5l. per cent. in Ireland), according to the propinquity or distance of relationship between the devisor and Legatee.

For the amount of the stamp duties in Great Britain, see the Acts 44 G. 3. c. 98: 45 G. 3. c. 28.—For the regulations by which executors are made liable for the payment of the duty, see 36 G. 3. c. 52: 42 G. 3. c. 99: And as to Ireland, see 47 G. 3. st. 1. c. 50, &c.—See further this Dict. tit. Executor.

3. If a Legacy is devised, and no certain time of payment, and the Legatee is an infant, he shall have interest for the Legacy from the expiration of one year after the testator's death; for so long the executor shall have, that he may see whether there are any debts, and
no laches shall be imputed to the infant; but if the Legatee be of full age, he shall have no interest but from the time of the demand of his Legacy. Where a Legacy is payable at a day certain it must be paid with interest from that day. 2 Salk. 415; 2 Nels. Abr. 1114. A person gives a Legacy charged upon land, which yields rents and profits, and there is no day of payment mentioned, the Legacy shall carry interest from the testator’s death, because the land yields profit from that time; though were it charged on the personal estate, and the will mentions no time for paying it, there the Legacy bears interest only from the end of a year after the death of the testator, which is said to be the settled difference. 2 P. Wms. 26. It has been decreed in equity, that although a Legacy be devised to be paid at a certain time, it carries interest only from such time as it is demanded: it is otherwise of a debt; and in such case non-payment at the day has been held no breach, without demand and refusal. Preced. Chanc. 161. See Abr. Cas. Eq. 286. One having a Legacy given him, payable within a year, knew nothing of it till a great while afterwards, when the executor published it in the Gazette; here Chancery would allow no interest, but the bare Legacy. Preced. Chanc. 11.

4. Legacies being gratuities, and no duties, action will not lie at Common Law for the recovery of a Legacy, but remedy is to be had in the Chancery or Spiritual Court. Allen 38. The cognizance of a Legacy properly belongs to the Spiritual Courts, for such bequests were not good by the Common Law; but this is to be understood, where a Legacy is devised generally: if it is payable out of the land, or out of the profits of the land, an action on the case lies at Common Law; but the usual remedy is in Chancery. Sid. 44: 3 Salk. 223. By Holt, Chief Justice, a Legatee may maintain an action of debt at Common Law against the owner of land, out of which the Legacy is to be paid; and since the statute of wills gives him a right, by consequence he shall have an action at law to recover it. 2 Salk. 415. And sometimes the Common Law takes notice of a Legacy, not directly, but in a collateral way; as where the executor promised to pay the money, if the Legatee would forbear to sue for the Legacy, this was adjudged a good consideration to ground an action; but that it would not lie for a Legacy in specie; which would be to divest the Spiritual Court of what properly belonged to their jurisdiction, by turning suits which might be brought there into actions on the case. Raym. 23. And it is now positively determined that no action at law lies for a Legacy; the Court of Chancery being the proper jurisdiction for that purpose. Deeks v. Strutt, 5 Term Rep. 630.—The reason given in this case seems to contradict the principle of another case in Cowes. 284, 9; where it was held, that if an executor, in consideration of assets in his possession, promises to pay a Legacy, an action of assumpsit lies against him in his own right.—In the first mentioned of these cases, however, no express promise was proved.—If security is given by bond to pay a Legacy, in such case an action at law is the proper remedy; by giving the bond, the Legacy is, as it were, extinct, and becomes a debt at Common Law, and the Legatee can never afterwards sue for it in the Spiritual Court. Yelv. 39. For the recovery of a debt or such like thing in action, given by way of Legacy, it is best to make the Legatee execu-
tor as to that debt, &c. or he must have a letter of attorney to sue in the executor's name. Wood's Inst. 330.

An action at law will lie against an executor to recover a specific chattel bequeathed, after his assent to the bequest. Doe d. Ld. Say and Sele v. Guy, 3 East's Ref. 120.

It is without question that the suit for a personal Legacy may be brought in Chancery; and if the matter has proceeded to a sentence in the Ecclesiastical Court, it is proper to go into Chancery for the executor's indemnity; where the Legatees are to give security to refund, and that Court will see money put out for children. On like principles a bill for the distribution of an intestate's personal estate is proper in Chancery, for the Spiritual Court in that case has but an ineffectual jurisdiction. See Fonblanque's Treat. Eq. lib. 4, jit. 1, c. 1. § 2.

An executor being in equity considered as a trustee for the Legatee, with respect to his Legacy, and as a trustee in certain cases for the Next-of-kin as to the undisposed surplus, is the true ground of equitable jurisdiction in enforcing the payment of a Legacy, or distribution of personal estate. See 1 P. Wms. 544, 575.

That the jurisdiction of our Courts of Equity, is, in such cases, more effective and protective of the interest of creditors and Legatees, is evident in several instances, particularly in compelling executors to give security for a Legacy payable at a future day, the executor appearing to have wasted the estate. 1 Ch. Ca. 121:—or to bring the fund into Court. 3 Bro. C. R. 365. And there are cases in which a Court of Equity will restrain proceedings in the Ecclesiastical Court for a Legacy; as where a husband is suing for a Legacy in right of his wife. See 2 Att. 420: Toth. 114: Pre. Ch. 548.

The Spiritual Court administers redress in the case of subtraction or the withholding or detaining of Legacies, as a consequential part of their testamentary jurisdiction; but in this case the Courts of Equity exercise a concurrent jurisdiction, as incident to some other species of relief required: and as it is beneath the dignity of the King's Courts to be merely ancillary to other inferior jurisdictions, the cause, when once brought there, receives there also its full determination. See 3 Comm. 98, c. 7.

5. Where a testator gives his debtee a Legacy greater than his debt, it shall be taken in satisfaction for its though where the Legacy is less, it shall not be deemed as any part thereof; but as a legacy is a gift, sometimes the Legatee has been decreed both. 1 Salk. 155: 2 Salk. 508. If a greater Legacy is given by a codicil to the same person that was Legatee in the will, it shall not be a satisfaction unless so expressed. 1 P. Wms. 424.

Although a Legacy is to be taken as a gift, yet a man shall be intended to be just before he is kind; so that a bequest of the same sum by the debtor to the creditor shall be applied in satisfaction of the debt. Pre. Ch. 394: 2 P. Wms. 130: 3 P. Wms. 354: 1 Vez. 123: Mosel. 7: See 2 P. Wms. 616.—Yet where there are assets, and the testator intended both, it may be as good equity to construe him both just and kind: and the construction of making a gift a satisfaction has, in many cases, been carried too far. See 1 Salk. 155: 1 P. Wms. 410: 2 P. Wms. 616.

If a Legacy be less than the debt, it was never held to go in satisfaction. 2 Salk. 508: Pre. Ch. 394: 2 P. Wms. 616: 3 Vern. 478: Mosel. IV.
sel. 295.—So if the Legacy were upon condition, or upon a contingency; for the will is intended for the Legatee's benefit; and therefore it could not be supposed that the testator would give him an uncertain recompense in satisfaction of a certain demand. Pre. Ch. 394: Salk. 508: 2 Atk. 300: 491: 2 P. Wms. 555: 2 Vez. 519.—So where the Legacy is not equally beneficial with the debt in some one particular, although it may be more so in another, as in time of payment. Pre. Ch. 256: 2 Vern. 478: 2 Atk. 300: 3 Atk. 96: 1 Bro. C. R. 129, 295.—So if the thing were of a different nature, as land, it should not go in satisfaction of money, unless there was a defect of assets. 2 P. Wms. 616: Salk. 508: 3 P. Wms. 243.—So if the debt was contracted after the Legacy given; as the testator could not have it in contemplation to satisfy a debt not then in being. 2 Salk. 508: 2 P. Wms. 342: 1 P. Wms. 409: 3 P. Wms. 353.—So if the debt was upon an open or running account, so that it might not be known to the testator whether he owed any money to the Legatee or not. 1 P. Wms. 299.

Cases of this nature therefore depend upon circumstances; and where a Legacy has been decreed to go in satisfaction of a debt, it must be grounded upon some evidence, or at least a strong presumption that the testator did so intend it; for a Court of Equity ought not to hinder a man from disposing of his own as he pleases: and therefore the intention of the party is to be the rule: for where he says he gives a Legacy, the Court cannot contradict him, and say he pays a debt. See Treat. Eq. lib. 4. pt. 1. c. 1. § 5; and the notes there.

LEGALIS HOMO, He who stands rectus in curia, not outlawed, excommunicated, or infamous; and in this sense are the words probi & legales homines: hence also legality is taken for the condition of such a man. Leg. Ed. Conf. c. 18.

LEGALIS MONETA ANGLIE, Lawful money of England, is gold or silver money coined here by the King's authority, &c. 1 Inst. 207. See title Coin.

LEGAMANNUS, See Lageman.

LEGATORY, Legatarius. | He or she to whom any thing is bequeathed; a Legatee. See stat. 27 Eliz. c. 16. Spelman says, it is sometimes used pro Legato vel Nuncio.

LEGATE, Legatus.] An ambassador or Pope's Nuncio. There are two sorts of Legates, a Legate à latere, and Legatus notus; the difference between whom is thus: Legatus à latere was usually one of the Pope's family vested with the greatest authority in all ecclesiastical affairs over the whole kingdom where he was sent; and during the time of his legation he might determine even those appeals which had been made from thence to Rome: Legatus notus had a more limited jurisdiction, but was exempted from the authority of the Legate à latere; and he could exercise his jurisdiction in his own province. The Popes of Rome had formerly in England the archbishops of Canterbury their Legatus notus; and upon extraordinary occasions, sent over a Legatus à latere.

LEGATEE, The person to whom a Legacy is bequeathed by a last will.

LEGATORY, See Legaty.

LEGATUM, In the ecclesiastic sense, was a legacy given to the church, or accustomed mortuary. Cowell.

LEGEM FACERE, To make law, on oath; Legem habere, to be
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capable of giving evidence upon oath; *Minor non habet legem.* Selden’s notes on *Heig.* 133. See *Wages of Law.*

**LEGERGILD, Legergidium.** See *Lairwite.*

**LEGIOSUS, Litigious,** and so subjected to a course of *Law.* Cowell.

**LEID, Vide Lathe & Lath-reve.**

**LEIPA, a departure from service.**—*Si quis à Domino suo sine licentia discedat, ut leipa emendetur & redire cogatur.* Leg. *Hen.* 1. c. 43. *Blount.*—Rather, an *Elofer,* the person who escapes or departs. See *Splemn.* in v.

**LEIRWIT, Muleta adulteriorum. Fleta, lib. 1. c. 7.*] Is used for a liberty, whereby a lord challengeth the penalty of one that lieth unlawfully with his bond-woman. Cowell.

**LEITHEN, Vide Lathe and Lath-reve.**

**LEMON JUICE, See Lime.**

**LENT, From the Germ. Lentz. i. e. Ver. The Spring Fast.*] A time of fasting forty days, next before *Easter*; mentioned in *stat.* 2 & 3 *Ed.* 6. c. 19. First commanded to be observed in *England* by *Erkenbert,* seventh King of *Kent,* before the year 800. *Baker’s Chron.* 7. No meat was formerly to be eaten in *Lent,* or on *Wednesdays* or other fish days, but by licence, under certain penalties. And butchers were not to kill flesh in the *Lent,* unless for victualling ships, &c.

**LEP AND LACE, Lephe & Lasse.**] A custom in the manor of *Writtle* in *Essex,* that every cart which goes over *Greenbury* within that manor, (except it be the cart of a nobleman) shall pay 4d. to the lord. This *Greenbury* is conceived to have been anciently a market place; on which account this privilege was granted. *Blount.*

**LEPA, A measure which contained the third part of two bushels: whence we derive a seed-leaft. Du *Cange.*

**LEPORARIUS, A greyhound for the hare. Mon. Ang. tom. 2. fol. 283.**

**LEPORIUM, A place where hares are kept together. Mon. Ang. tom. 2. fol. 1035.**

**LEPROSO AMOVENDO; An antient writ that lay to remove a Leper or Lazar, who thrust himself into the company of his neighbours in any parish, either in the church, or at other public meetings, to their annoyance. Reg. Orig. 237. The writ lay against those Lepers that appear outwardly to be such, by sores on their bodies, smell, &c. and not against others: and if a man were a Leper and keep within his house, so as not to converse with his neighbours, he shall not be moved. New Nat. Br. 521.**

**LE ROY LE VEUT, See Royal Assent; Parliament.**

**LE ROY S’AVISERA, By these words to a bill, presented to the King by his houses of Parliament, are understood his denial of that bill. By this means the indelicacy of a positive refusal to give the Royal Assent to a bill passed by the Lords and Commons is avoided. See tit. Parliament.**

**LESCHEWES, Trees fallen by chance, or windfalls. Broke’s Abr. 341.**

**LESIA, a leash of greyhounds, now restrained to the number of three, but formerly more. *Spelm.*

**LESPEGEND, Sax. Le sfegen Baro minor] Sint sub quotibet hominibus quorum quatuor ex medio ciribus hominibus quos Angli Lespegend nuncupant, Dani vero young-men vacant, locati, qui curam et onus tum...**
viridis tum veneris suscifiant.—Hence it appears that this was an inferior officer in forests, to take care of the vert and venison therein, &c.—Constitut. Conuat. de Forresta, Art. 2.

LESSA, A legacy; from this word also Lease is derived. Mon. Ang. tom. 1. pag. 562.

LESSOR AND LESSEE, The parties to a Lease. The former he who makes the Lease, the latter to whom it is made. 

LEASE, See Ballast.

LESTAGEFY, Lestage-free, or exempt from the duty of paying ballast money. Cowell.

LESWES, or LELVES, Is a word used in Domesday, to signify pastures, and is still used in many places of England, and often inserted in deeds and conveyances. Cowell. Hence the modern term Leasowes.

LETARE JERUSALEM, See Quadragesimalia.

LETHEREWITE, See Leirwit.

LETTERS, Threatening. See Threatening Letters.

LETTER MISSIVE FOR ELECTING OF A BISHOP, A letter from the King to the Dean and Chapter, containing the name of the person whom he would have them elect. See title Bishop.

LETTER MISSIVE IN CHANCERY. To a Peer. See Chancery.

LETTERS OF ABSOLUTION, Litera absolutorix.] Absoluntary letters were such in former times, when an abbot released any of his brethren ab omni subjectione & obedientia, &c. and made them capable of entering into some other order of religion. Mon. Faver-shamensl, p. 7.

LETTER OF ATTORNEY, Litera Attornati.] A writing, authorising another person, who, in such a case, is called the Attorney of the party appointing him, to do any lawful act in the stead of another; as to give seisin of lands; receive debts, or sue a third person, &c. A Letter of Attorney is either general or special. The nature of this instrument is to give the attorney the full power and authority of the maker, to accomplish the act intended to be performed; and sometimes these writings are revocable, and sometimes not so: but when they are revocable, it is usually a bare authority only; they are irre- vocable when debts, &c. are assigned to another, in which case the word irrevocably is inserted; and the intention of them then is to enable the assignee to receive the debt, &c. to his own use.

In cases of Letters of Attorney it was antiently held that the authority must be strictly pursued; if it be to deliver livery and seisin of lands between certain hours, and the attorney doth it before or after; or in a capital messuage, and he does it in another part of the land, &c. the act of the attorney to execute the estate shall be void. Plovid. 475. But notwithstanding the antient opinions for pursuing authorities with great strictness and exactness, yet in case of livery and seisin they have been always favourably expounded of later times, unless where it hath appeared, that the authority was not pursued at all; as if a Letter of Attorney be made to three, two cannot execute it, because they are not the parties delegated, and they do not agree with the authority. 2 Mod. Ref. 79. Where the attorney does less than the authority mentions, it is void: it is said if he doth more it may be good for so much as he has power to do, and void for the rest; yet both these rules have divers exceptions and limitations. Vide 1 Inst. 258.
LETTER of ATTORNEY. 133

Where two attorneys were made jointly and severally to deliver seisin of lands, &c. and one of them delivered seisin of part of the land, and after another attorney, being tenant thereof for years, gave livery of the other part of the land: this was held good, though made at several times, 1 And. 247. And if a man make a deed of feoffment of lands in divers counties, with such a Letter of Attorney, the livery must be at several times; otherwise it cannot be made. Ibid. See 1 Leon. 192, 260.

If a Mayor and Commonalty make a feoffment of lands and execute a Letter of Attorney to deliver seisin, the livery and seisin, after the death of the mayor, will be good, by reason the Corporation dieth not. 1 Inst. 32. In other cases, by the death of the party giving it, the power given by Letter of Attorney generally determines. A person made a Letter of Attorney to a creditor to receive all his wages and pay due from a ship, and afterwards died at sea, this authority was adjudged to be so determined, that all the rest of the creditors should have a share in his administration. Preced. Chanc. 125: 2 Vern. 391. Sailors generally make the attorney, executor also. See title Navy. See further as to the Letters of Attorney, Com. Dig. title Attorney (C).

A Letter of Attorney to receive Rents, Debts, and Dividends, and to demise Premises.

KNOW all men by these presents, That I A. B. of the parish of Christ Church in the county of Middlesex, minister, for divers good causes and considerations me hereunto moving, have made, ordained, constituted, and appointed, and by these presents do make, ordain, constitute, and appoint C. D. of the parish of Christ Church aforesaid, weaver, my true and lawful attorney for me, and in my name, place, and stead, and for my use, to ask, demand, and receive, all and every rent and rents, sums and sum of money now due, or which hereafter shall or may grow due to me, from any person and persons whatsoever, who have been, now are, or hereafter shall or may be tenant or tenants of any messuages or tenements, lands, hereditaments, and premises, or of any part or parts, share or shares, of any messuages or tenements, lands, hereditaments, and premises, in Great Britain, the island of Jamaica, or elsewhere, belonging to me; and of and from all and every other person and persons liable to or empowered to pay the same; and upon receipt thereof, or of any part thereof, acquittances or other sufficient discharges for me and in my name, or in his own name, to make and give for what he shall so receive, and for non-payment of such rent or rents, or any part thereof, to enter into and upon all or any of the messuages or tenements, lands and premises, liable to the payment thereof, and distress for the same, and the distress and distresses then and there found to take away, sell, and dispose of according to law; and also for me and in my name, and for my use, to ask, demand, and receive, of and from all and every corporation and companies, all and every sum and sums of money now due, or which hereafter shall or may grow due to me for dividends, interest, or profits of any sum or sums of money, parts, or shares, now belonging, or which shall belong to me therein respectively; and likewise to ask, demand, sue for, recover and receive all and every debt and debts, sum and sums of money due, or to grow due and payable to me, from any other person or persons, for any other matter, cause, or thing whatsoever, and upon receipt thereof, or of any part thereof in my name, or in his own name, to make and give proper receipts and discharges for the same; and in
case any tenant or tenants, of any messuages or tenements, lands and
premises, wherein I have any right or interest, shall quit or leave the
premises by them respectively holden, then and in that case I do hereby
give and grant to my said attorney, full power and authority to demise,
let, and set the same respectively, or any part thereof, to such person
or persons, and for such rent and rents, and for such term and time,
and under such covenants and agreements as my said attorney shall
think fit, and to extend and apply such part of the rents and profits of
the said premises as shall come to his hands, in repairing and improv-
ing the same, as my said attorney shall judge proper, and one or more
attorney or attorneys under him, for all or any the purposes aforesaid,
to make and at pleasure to revoke; Giving and hereby granting to my
said attorney full power and authority in the performance of all and
singular the premises aforesaid, as fully and amply in every respect as
I myself might or could do if personally present; hereby ratifying and
confirming all and whatsoever my said attorney shall lawfully do or
cause to be done, in and about the said premises, by virtue hereof. In
witness whereof, I the said A. B. have hereunto set and subscribed my
hand and seal this —— day of —— in the year of our Lord ——
Sealed and delivered (being first duly stampt)  

LETTERS CLAUSE; Literæ Clause.] Close Letters opposed to
Letters-patent: being commonly sealed up with the King’s Signet or
Privy Seal; whereas the Letters-patent are left open and sealed with
the broad seal.

LETTER OF CREDIT, Is where a merchant or correspondent
writes a Letter to another, requesting him to credit the bearer with

LETTERS OF EXCHANGE, Literæ Cambii.] Reg. Orig. 194.
See title Bill of Exchange.

LETTER OF LICENCE, An instrument or writing made by
creditors to a man that hath failed in his trade, allowing him longer
time for the payment of his debts, and protecting him from arrest in
going about his affairs. These Letters of Licence give leave to the
party to whom granted to resort freely to his creditors, or any others,
and to compound debts, &c. And the creditors severally covenant,
that if the debtor shall receive any molestation or hindrance from any
of them, he shall be acquitted and discharged of his debt against
such creditor, &c.

LETTERS OF MARQUE, Commissions for extraordinary Re-
prisals for Reparation to merchants taken and despoiled by strangers
at sea, grantable by the Secretaries of State, with the approbation of
the King and Council; and usually in time of war, &c. Lex Mercat.
173.

The words Marque and Reprisal are used as synonymous; and
signify, the latter a taking in return, the former the passing the fron-
tiers in order to such taking. Dufresne title Marca.

As the delay of making war by the Sovereign Power of the Nation,
may sometimes be detrimental to individuals who have suffered by
depredations from foreign States; the laws of England have, in some
respect, armed the subject with powers to impel the prerogative of
the Crown in this particular, by directing his ministers to issue Let-
ters of Marque and Reprisal upon due demand; the prerogative of
LETTERS of MARQUE. 135

granting which is nearly related to, and plainly derived from, that of making war; (See title King:) this being indeed only an incomplete state of hostilities, and generally ending in a formal denunciation of war. These Letters are grantable by the Law of Nations, wherever the Subjects of one State are oppressed and injured by those of another; and justice is denied by that State to which the oppressor belongs. In this case, Letters of Marque and Reprisal may be obtained, in order to seize the bodies or goods of the Subjects of the offending State, until satisfaction be made, wherever they happen to be found; and in fact this custom of reprisals seems dictated by nature. The necessity, however, is obvious of calling in the Sovereign Power to determine when reprisals may be made; else every private sufferer would be a judge in his own cause. In pursuance of which principle it is declared by stat. 4 Hen. 5. c. 7, that if any Subjects of the realm are oppressed, in the time of truce, by any foreigners, the King will grant Marque in due form, to all that feel themselves grieved; which form is thus directed to be observed: the sufferer must first apply to the Lord Privy Seal, and he shall make out Letters of request under the Privy Seal; and if after such request of satisfaction made, the party required do not within convenient time make due satisfaction or restitution to the party grieved, the Lord Chancellor shall make him out Letters of Marque under the Great Seal; and by virtue of these, he may attack and seize the property of the aggressor nation, without hazard of being condemned as a robber and a pirate. See 1 Comm. c. 7. p. 258, 9: See stat. 14 H. 6. c. 7, that goods taken on board enemies' ships shall be lawful prize, though belonging to foreigners in amity.

It is observable that the above statute of Henry V. is confined to the time of a truce, wherein there is no express mention that all Marques and Reprisals shall cease. It seems that the manner of granting Letters of Marque under this statute has been long disused, as it could only be granted to persons actually grieved. But if, during a war, a Subject without any commission from the King should take an enemy’s ship, the prize would not be the property of the captor, but would be one of the droits of Admiralty, and would belong to the King, or he grantee the Admiral. Carth 399. Therefore, to encourage merchants and others to fit out privateers, or armed ships, in time of war, the Lord High Admiral or the Commissioners of the Admiralty are, from time to time, empowered by various acts of parliament to grant commissions to the owners of such ships; and the prizes captured are divided between the owners and the captain and crew of the privateer. But the owners, before the commission is granted, give security to the Admiralty, to make compensation for any violation of treaties between those powers with whom the nation is at peace: And that such armed ships shall not be employed in smuggling. These commissions are now upon all occasions, as well as in the statutes, called Letters of Marque: See Stats. 29 Geo. 2. c. 34: 19 Geo. 3. c. 67: 33 Geo. 3. c. 34, 66: 43 Geo. 3. c. 160: 45 G. 3. c. 72, &c. (Temporary Prize-acts passed during war.)—Sometimes the Lords of the Admiralty have this authority by a proclamation from the King in Council, as was the case in December 1780, to empower them to grant Letters of Marque to seize the ships of the Dutch. See Christian’s Note on 1 Comm. c. 7. ubi sup.

If a Letter of Marque wilfully and knowingly take a ship and goods
belonging to another nation, not of that State against whom the commission is awarded, but of some other in amity, this amounts to a downright piracy. Rol. Abr. 450. See further title Reprisal.

LETTERS PATENT, Literae patentae.] Sometimes called Letters overt; are writings of the King sealed with the Great Seal of England, whereby a person is enabled to do or enjoy that which otherwise he could not; and so called, because they are open with the seal affixed, and ready to be shewn for confirmation of the authority thereby given. And we read of Letters Patent to make denizens, &c. Letters Patent may be granted by common persons, but in such case they are not properly called Patentees; yet for distinction, the King’s Letters Patent have been called Letters Patent Royal. See stat. 2 H. 6. c. 10. See titles Patents; Grants of the King.

LFTTERS OF SAFE CONDUCT, See title Safe Conduct.

LEVANT AND COUCHANT, Is a law term for cattle that have been so long in the ground of another, that they have laid down and are risen again to feed; in antient records levantes et cubantes. When the cattle of a stranger are come into another man’s ground, and have been there a good space of time, (supposed to be a day and a night,) they are said to be levant and couchant. Terms de Ley: 2 Lit. Abr. 167. Beasts of a stranger on the Lord’s ground may be distrained for rent, though they have not been levant and couchant; but it is otherwise if the tenant of the land is in fault in not keeping up his mounds, by reason whereof the beasts escape upon the land. Wood’s Inst. 190. See title Distress I. 2.

LEVANUM, From Lat. Levare, to make lighter:] Leavened bread.

LEVARE FOZNUM, to make hay, or properly to cast it into wind-rows, in order to cock it up. Paroch. Antiq. p. 320. Hence una levatio fani was one day’s hay-making, a service paid the lord by inferior tenants. Paroch. Antiq. 402.

LEVARI FACIAS, A writ of execution directed to the Sheriff for levying a sum of money upon a man’s lands and tenements, goods and chattels, who has forfeited his recognizance. Reg. Orig. 291. This writ was given by the Common Law, before the statute West. 2. c. 18, gave the writ of Elegit; commands the debt to be levied de exitibus & proficiis terrae, &c.

There is a Levari Facias damna disseissitoribus, for the levying of damages, wherein the disseisor has formerly been condemned to the disseisee. Reg. Orig. 214. Also Levari Facias residuum debit, to levy the remainder of a debt upon lands and tenements, or chattels of the debtor, where part has been satisfied before. Reg. Orig. 299. And a Levari Facias quando vicecomes returnavit quod non habuit emittores, commanding the sheriff to sell the goods of the debtor, which he has taken, and returned that he could not sell. Reg. Orig. 300. See title Execution.

LEUCA, A measure of land consisting of 1500 paces. Ingulphus says, it is 2000 paces, frag. 910. In the Monasticon. 1 tom. p. 313, it is 480 perches.

LEUCATA, A space of ground, as much as a mile contains. Monast. 1 tom. p. 768. And so it seems to be used in a charter of William the conqueror to Battle Abbey. Cowell.

LEVELLUS, A level, even or upon the level. Cowell.

LEVITICAL DEGREES, See title Descent.
LEVY, Levare.] Is used in the law for to collect, or exact; as to levy money, &c. Sometimes it signifies to erect, or cast up; as to levy a ditch, &c. To levy a fine of land, is the usual term for the completing that conveyance; in antient time, the word were a fine, was made use of. 17 H. 6. See title Fine.

LEVYING MONEY WITHOUT CONSENT OF PARLIAMENT. No Subject of England can be constrained to pay any aids or taxes, even for the defence of the realm or the support of Government, but such as are imposed by his own consent, or that of his representatives in parliament. See stats. 25 Ed. 1. cc. 5, 6: 34 Ed. 1. stat. 4. c. 1: 14 Ed. 3. stat. 2. c. 1: The Petition of Right, 3 Car. 1. c. 1: stat. 1 W. & M. stat. 2. c. 2; and this Dict. titles Liberties; Taxes.

LEVYING WAR AGAINST THE KING, See title Treason.

LEWDNESS. Open and notorious Lewdness, is an offence against religion and morality, either by frequenting houses of ill fame, which is an indictable offence, Poth. 208; or by some grossly scandalous and public indecency, for which the punishment is fine and imprisonment; and in Mich. T. 15 Car. 2, a person was indicted for open Lewdness in shewing himself naked on a balcony, and other misdemeanors, and was fined 2000 marks, imprisoned for a week, and bound to his good behaviour for three years. 1 Sid. 168. In times past, when any man granted a lease of his house, it was usual to insert an express covenant, that the tenant should not entertain any lewd woman, &c. See titles Bawdy-house; Fornication.

A temporal punishment may also in certain circumstances be inflicted for having bastard children. By stat. 18 Eliz. c. 3, two justices may take order for the punishment of the mother, and reputed father; but what that punishment shall be, is not therein ascertained, though the contemporary exposition was that a corporal punishment was intended. Dalh. J. c. 11. By stat. 7 Jac. 1. c. 4, a specific punishment, commitment to the house of correction, is inflicted on the woman only. But in both cases it seems that the penalty can only be inflicted if the bastard becomes chargeable to the parish; for otherwise the very maintenance of the child is considered as a degree of punishment. 4 Comm. c. 4. p. 65. See title Bastard II. 1.

Many offences of the incontinent kind fall properly under the jurisdiction of the Ecclesiastical Court; and are appropriated to it. But except those appropriate cases, the Court of King's Bench is the Custos Morum of the people; and has the superintendency of offences contra bonos mores. 3 Burr. 1438. An information has been granted in that Court against a number of persons concerned in assigning a young girl as an apprentice to a gentleman under a pretence of learning music, but for the purposes of prostitution. 3 Burr. 1438, &c. There is also an instance of an information for a conspiracy, granted against a Peer and several others, for enticing away a young lady from her father's house, and procuring her seduction by the Peer. 3 St. Tr. 519. And all such acts of indecency and immorality are also punishable by indictment in any criminal Court, as public misdemeanors. 4 Comm. c. 4. p. 64, in n.

LEX, A law for the government of mankind in society. Lit. Dict. It is often taken for judicium Dei or Ordeal. See Lada; Law.

LEX AMISSA, or legem amittere, viz. One who is an infamous, perjured, or outlawed person. See Bracton, lib. 4. c. 19. par. 2.
LEX APOSTATA, or LEGEM APOSTATARE, Is to do a thing contrary to law. See Leg. H. 1. c. 12. Qui legem apostatabit were sua sit reus prima vice.

LEX BREHONIA, The Brehon or Irish law, overthrown by K. John. See Ireland.

LEX BRETOISE, Was the law of the antient Britons, or Marches of Wales. Lex Marchiarum.

LEX DERAISNIA, The proof of a thing which one denies to be done by him, where another affirms it; defeating the assertion of his adversary, and shewing it to be against reason or probability: this was used among the Old Romans as well as the Normans. Grand Cestumur. c. 126.

LEX JUDICIALIS, Ordeal. Leg. H. 1. See Lada.


LEX TALIONIS, Is juris positivus; and the taliones among the Jews were converted into pecuniary estimates, so that the price of an eye, &c. lost, was allowed to the person injured. 1 Hale's Hist. P. C. 12.

It does not appear that this is a principle applicable to laws of a civilized state: when it was once attempted to introduce into England the Law of Retaliation, it was intended as a punishment for such only as preferred malicious accusations against others; it being enacted by stats. 37 E. 3. c. 18, that such as preferred any suggestions to the King's Great Council, should put in sureties of taliation; that is, to incur the same pain that the other should have had in case the suggestion were found untrue. But after one year's experience, this punishment of taliation was rejected, and imprisonment adopted in its stead. Stat. 38 E. 3. c. 9. See 4 Comm. c. 1. f. 12, 14.

LEX TERRÆ, The law and custom of the land, distinguished by this name from the Civil Law. See Selden, in Dissertatione ad Fletam, c. 9. par. 3.

LEX WALLENSICA, The British law, or law of Wales. Statut. Wall.

LEY, LEYS, Fr. Law, Laws.

LEY, LEE, LAY, Whether in the beginning or end of names of places, signifying an open field, or large pastures. From the Saxon, leag, comfus, juscum; as Blechingley, &c. Cowell.—Leys in Domesday is used for pasture.

LEY-GAGGER, Wager of Law. See that title.

LIBEL:

Libellus Famosus:] A contumely or reproach, published to the defamation of the Government, of a Magistrate, or of a private person. Com. Dig. title Libel (A.)

It is also defined to be, a malicious defamation, expressed either in printing or writing, or by signs, pictures, &c. tending either to blacken the memory of one who is dead, or the reputation of one who is alive, and thereby exposing him to public hatred, contempt, and ridicule. 1 Hawk. P. C. c. 73. § 1: Bac. Abr. title Libel: 5 Mod. 165: 5 Co. 121, 5.

Libels, says Blackstone, taken in their largest and most extensive sense, signify any writings, pictures, or the like, of an immoral or illegal tendency. Considered particularly as offences against the public
peace, they are malicious defamations of any person, and especially a Magistrate, made public by either printing, writing, signs, or pictures, in order to provoke him to wrath, or expose him to public hatred, contempt, or ridicule. The direct tendency of these Libels is the breach of the public peace, by stirring up the objects of them to revenge, and perhaps to bloodshed. 4 Comm. c. 11. p. 150: 3 Comm. c. 8. p. 123.

From the different modes in which a Libel may be conveyed, a distinction has been made between a Libel in scriptis, and one sine scriptis; i. e. in writing, or without writing. 3 Inst. 174.

I. What shall be considered as a Libel.

II. Of its Publication.

III. In what Cases the Truth of a Libel may or may not be pleaded in justification of it.

IV. Of Its Punishment. See also title Jury IV. 2.

I. A Libel is the greatest degree of scandal, and does not die like words which may be forgot, an action for which is confined to the person; but the cause of action for scandal in a Libel survives. 5 Rep. 125.

This species of defamation is usually termed written scandal; and thereby receives an aggravation, in that it is presumed to have been entered upon with coolness and deliberation; and to continue longer and propagate wider and farther than any other scandal. 5 Rep. 125: Bac. Abr. title Libel (A).

The important distinction between Libels and words spoken was fully established in the case of Villiers v. Mousley, 2 Wils. 403, viz. That whatever renders a man ridiculous, or lowers him in the esteem and opinion of the world, amounts to a Libel; though the same expressions, if spoken, would not have been defamation: as, to call a person in writing an itchy old toad, was held in that case to be a Libel; although as words spoken they would not have been actionable. And on this ground a young lady of quality in the year 1793, recovered 4000l. damages for reflections upon her chastity, published in a news-paper, although she could have brought no action for the grossest verbal aspersions that could have been uttered against her honour. An action for a Libel also differs from an action for words in this particular; that the former may be brought at any time within six years, and any damages will entitle the plaintiff to full costs. Christian's note on 1 Comm. p. 123, 6. To print of any person that he is a swindler, is a Libel and actionable. 1 Term Rep. 748.

All Libels are made against private men, or magistrates, and public persons; and those against magistrates deserve the greatest punishment: if a Libel be made against a private man, it may excite the person libelled, or his friends, to revenge and break the peace; and if against a magistrate, it is not only a breach of the peace, but a scandal to government, and stirs up sedition. 5 Rep. 121.

Where a writing inveighs against mankind in general, or against a particular order of men, this is no Libel; it must descend to particulars and individuals to make it a Libel. Trin. 11 W. 3. B. R. But a general reflection on the Government is a Libel, though no particular person is reflected on: and the writing against a known law is held to be criminal. 4 Stat. Tr. 672, 903. According to Holt C. J. scandalous matter is not necessary to make a Libel; it is enough if
the defendant induces an ill opinion to be had of the plaintiff; &c. And if a man speak scandalous words, unless they are put in writing, he is not guilty of a Libel; for the nature of a Libel consisteth in putting the infamous matter into writing. 2 Salk. 417; 3 Salk. 226. A defamatory writing, expressing only one or two letters of a man's name, if it be in such a manner, that from what goes before and follows after, it must be understood, by the natural construction of the whole, to signify and point at such a particular person, is as properly a Libel as if the whole name was expressed at large. 1 Hawk. P. C. c. 73. § 3. For, adds Hawkins, it brings the utmost contempt upon the law, to suffer its justice to be eluded by such trifling evasions: and it is a ridiculous absurdity to say that a writing which is understood by every the meanest capacity cannot possibly be understood by a Judge and Jury. On application for an information for this offence, some friend to the party complaining should in such case state by affidavit the having read the Libel, and that he understands and believes it to mean the party; 3 Bac. Abr. in n. And in the case of actions for Libels by signs or pictures, it seems necessary always to shew by proper inuendoes and averments of the defendant's meaning, the import and application of the scandal, and that some special damage has followed, otherwise it cannot appear that such Libel by picture was understood to be levelled at the plaintiff, or that it was attended with any actionable consequences. 3 Comm. c. 8, p. 126.

Though a private person or magistrate be dead at the time of making the Libel, yet it is punishable; as it tends to a breach of the peace. Hob. 215; 5 Co. 125; 1 Hawk. P. C. c. 73, § 1: 4 Term Rep. 126; 129 in n. But an indictment for publishing libellous matter reflecting on the memory of a dead person, not alleging that it was done with a design to bring contempt on the family of the deceased, and to stir up the hatred of the King's Subjects against them, and to excite his relations to a breach of the peace, cannot be supported; and judgment was in this case accordingly arrested. R. v. Topham, 4 Term Rep. 126. See R. v. Critchley, 4 Term Rep. 129, in n.

A private Libel for a private matter, as a letter scandalizing a person courting a woman is indictable, and punishable by fine. Sid. 270. No writing is esteemed a Libel, unless it reflect upon some particular person; and a writing full of obscene ribaldry, is not punishable by any prosecution at Common Law; but the author may be bound to the good behaviour, as a person of evil fame. 1 Hawk. P. C. c. 73. § 9. It was so agreed in Read's Case, 1 Mod. 142; but in the case of the K. v. Curl, Mich. 1 Geo. 2, for publishing an obscene book, the court were unanimous that it is a temporal offence, and that Read's case was not law. Stra. 783, 834: See also 4 Burr. 2527.

Printing or writing may be libellous, though the scandal is not directly charged, but obliquely and ironically; and where a writing, pretending to recommend to one the characters of several great men for his imitation, instead of taking notice of what they are generally famous for, pitches on such qualities only which their enemies charge them with the want of; as by proposing such a one to be imitated for his learning, who is known to be a good soldier, but an illiterate man; &c. this will amount to a Libel. 1 Hawk. P. C. c. 73. § 4.

The petition of the Seven Bishops in the reign of King James II. against the King's declaration, setting forth, that it was founded on
a dispensing power, which had been declared illegal in parliament, &c. was called a seditious Libel against the King: and they were committed to the Tower; but being after tried at bar, were acquitted. 3 Mod. 212. See State Trials. The printing of a petition to a committee of parliament, (which would be a Libel against the party complained of, were it made for any other purpose,) and delivering copies thereof to the members of the committee, is not the publication of a Libel, being justified by the order and course of proceedings in parliament. 1 Hawk. P. C. c. 73. § 8.

Scandalous matter in legal proceedings by bill, petition, &c. in a court of justice amounts not to a libel, if the court hath jurisdiction of the cause. Dyer, 285: 4 Rep. 14. But he who delivers a paper full of reflections on any person, in nature of a petition to a committee, to any other persons except the members of parliament who have to do with it, may be punished as the publisher of a Libel. 1 Haw. c. 73. § 8. And by the better opinion, a person cannot justify the printing any papers which import a crime in another, to instruct counsel, &c. but it will be a Libel. Sid. 414.

An order made by a corporation and entered in their books, stating, that A. B. (against whom a jury had found a verdict with large damages, in an action for a malicious prosecution for perjury, which verdict had been confirmed in C. B.) was actuated by motives of public justice in preferring the indictment, is a Libel reflecting on the administration of public justice, for which the Court of K. B. will grant an information against the members making the order. 2 Term Rep. 199. But it is no Libel to assign on the books of a Quakers’ meeting their reasons for expelling a member. 1 Black. Rep. 386.

It is neither the subject of a criminal prosecution, nor of an action to publish a true account of the proceedings in Parliament, or the Courts of Justice. See R. v. Wright, 8 Term Rep. K. B. 293: Curry v. Wells, 1 Bos. & Pul. C. P. 523.

A servant cannot maintain an action against his former master for words spoken, or a letter written, by him in giving the character of the servant, unless the latter prove the malice (or unless from the circumstances of the case malice may be inferred by a Jury), as well as the falsehood of the charge; even though the master make specific charges of fraud. See 1 Term Rep. K. B. 110; 3 Bos. & Pul. C. P. 587.

II. The communication of a Libel to any one person is a publication in the eye of the law; Moor 813; and therefore the sending an abusive private letter to a man is as much a Libel as if it were openly printed; for it equally tends to a breach of the peace; 2 Brownl. 151, 7; 12 Rep. 35; Hob. 215: Poph. 139: 1 Hawk. P. C. c. 73. § 11: 4 Comm. c. 11. p. 150: Boc. Abr. title Libel B (2); in which latter book it is stated that this was a matter of doubt; but a case is mentioned where an information was granted under such circumstances; and at all events it is an offence against the King’s peace, punishable by indictment; and if copies of it are afterwards dispersed, it aggravates the crime, or rather makes it a new crime, for which the party may have an action. Poph. 33: Hob. 62. Writing a letter to a man, and abusing him for his public charities, &c. is a libellous act, punishable by indictment. Hob. 215.
In the making of Libels, if one man dictates, and another writes a Libel, both are guilty; for the writing after another shews his approbation of what is contained in the Libel; and the first reducing a Libel into writing may be said to be the making it; but not the composing; if one repeats, another writes, and a third approves what is written, they are all makers of the Libel; because all persons who concur to an unlawful act are guilty. 5 Mod. 167. The making a Libel is the genus; and composing and contriving is one species; writing a second species; and procuring to be written, a third; and one may be found guilty of writing only, &c. 2 Salk. 419, &c. But observe, a mere writing, without a publication, was not in question in Salkeld. It is conceived that for the mere writing of a Libel, not published, no action can be maintained, nor prosecution legally supported.

If one writes a copy of a Libel, and does not deliver it to others, the writing is no publication: but it has been adjudged, that the copying a Libel, without authority, is writing a Libel, and he that thus writes it, is a contriver; and that he who hath a written copy of a known Libel, if it is found upon him, this shall be evidence of the publication: but if such Libel be not publicly known, then the mere having a copy is not a publication. 2 Salk. 417: 2 Nels. Abr. 1122. Writing a copy of a Libel is writing of a Libel, as it has the same pernicious consequence; and if the Law were otherwise, men might write copies, and print them with impunity. 2 Salk. 419. And when a Libel appears under a man's own hand-writing, and no author is known, he is taken in the manner, and it turns the proof upon him; and if he cannot produce the composer, it is hard to find that he is not the very man. Ibid. If one reads a Libel, or hears it read, and laughs at it, it is not a publishing; for before he reads or hears it read, he cannot know it to be a Libel: though if he afterwards reads or repeats it, or any part thereof, in the hearing of others, it is a publication of it: yet if part of it be repeated in mirth without any malicious purpose of defamation, it is said to be no offence. 9 Rep. 59: Moor 662. Every one convicted of publishing a Libel ought to be esteemed the contriver or procurer: the procurer and writer of a Libel have been held to be both contrivers; also he who procures another to publish it, and the publisher, are both publishers; and the contriver, procurer, and publisher of a Libel, are punishable by fine, imprisonment, pillory, or other corporal punishment, at the discretion of the court, according to the heinousness of the crime, &c. Moor, 627: 5 Rep. 125: 5 Inst. 174: 3 Cro. 17. See 1 Hawk. P. C. c. 73.

When any man finds a Libel, if it be against a private person, he ought to burn it, or deliver it to a magistrate; and where it concerns a magistrate, he should deliver it presently to a magistrate. 5 Rep. 125. If a Libel be found in a house, the master cannot be punished for framing, printing, and publishing it; but it is said he may be indicted for having it, and not delivering it to a magistrate: 1 Vent. 31; or it may in some cases be considered as evidence of his being the author or publisher. 2 Salk. 418.

The sale of a Libel by a servant in a shop, is prima facie evidence of a publication, in a prosecution against the master; and is sufficient for conviction, unless contradicted by contrary evidence.
III. It is immaterial, on a criminal prosecution, with respect to
the essence of a libel, whether the matter of it be true or false; be-
cause it equally tends to a breach of the peace; and the provocatio-
not, the falsity, is the thing to be punished criminally; though dou-
less the falsehood of it may aggravate its guilt and enhance its pun-
ishment. See 7 Term Rep. 4, that it is not necessary to allege the
falsity of the libellous matter. In a civil action, a Libel must appear
to be false as well as scandalous: for if the charge be true, the plain-
tiff has received no private injury, and has no ground to demand a
compensation for himself, whatever offence it may be against the
public peace: and therefore upon a civil action, the truth of the ac-
cusation may be pleaded in bar of the suit. But in a criminal pro-
secution, the tendency which all Libels have to create animosities and
to disturb the public peace is the whole that the law considers. And
therefore in such prosecutions, the only points to be inquired into
are, first the making or publishing of a book or writing; and second-
ly, whether the matter be criminal; and if both these points are
against the defendant the offence against the Public is complete.
4 Comm. c. 11. p. 150, 1: See post IV. but see title Jury IV. 2, as to
the intent of the party publishing.

It seems to be clearly agreed, that in an indictment or criminal
prosecution for a Libel, the party cannot justify that the contents
thereof are true, or that the person upon whom it is made had a bad
reputation; since the greater appearance there is of truth in any ma-
lícious invective, so much the more provoking it is: for as Ld. Coke
observes, in a settled state of government the party grieved ought
to complain for every injury done him, in the ordinary course of law;
and not by any means to revenge himself by the odious course of libel-
ling or otherwise. Bac. Abr. title Libel (A 5.) cites 5 Co. 125: Hob.
23: Moor 627: 1 Hawk, P. C. c. 73.

It is termed libellus famosus seu infamatoria scripta, and from its
pernicious tendency has been held a public offence at the Common
Law: for men not being able to bear the having their errors exposed
to public view, were found by experience to revenge themselves
on those who made sport with their reputations, from whence arose
duels and breaches of the peace: and hence written scandal has
been held in the greatest detestation, and has received the utmost
lib. 3. c. 36: 3 Inst. 174: 5 Co. 125: cited Bac. Abr. title Libel ad
init.

But although it has been held, at least for these two centuries,
that the truth of a Libel is no justification in a criminal prosecution,
yet in many instances it is considered as an extenuation of the of-
fence; and the Court of King’s Bench has laid down this general
rule: viz, that it will not grant an Information for a Libel, unless the
prosecutor who applies for it makes an affidavit, asserting directly
and pointedly that he is innocent of the charge imputed to him. But this rule may be dispensed with, if the person libelled resides abroad; or if the imputations of a Libel are general and indefinite; or if it is a charge against the prosecutor for language which he has held in parliament. Doug. 271 (324); 372 (388.)

Where on application for an information the truth of the Libel is not denied, the court (except in the particular instances above mentioned) will leave the injury to be remedied in the ordinary course of justice by action or indictment. Stra. 498. See post. IV. But the Court will not grant this extraordinary remedy by information, nor should a Grand Jury find an indictment, unless the offence be of such signal enormity, that it may reasonably be construed to have a tendency to disturb the peace and harmony of the community. In such a case the public are justly placed in the character of an offended prosecutor, to vindicate the common right of all, though violated only in the person of an individual; for the malicious publication of even truth itself cannot in policy be suffered to interrupt the tranquillity of any well-ordered Society. This is a principle so rational and pure that it cannot be tainted by the vulgar odium which has accompanied the derivation of the doctrine from the tyranny of the Star-chamber: the adoption of it by the worst of courts can never weaken its authority; and without it all the comforts of Society might with impunity be hourly endangered or destroyed. Vide Law of Libels: 1 Hawk. P. C. c. 73. § 6, in n.

There are authorities that truth is not a justification even in an action for a Libel; and a very learned writer seems to doubt whether such a plea would now be admitted by the Courts, if the accusation in the Libel did not amount to an indictable offence. 3 Wood. 182. It seems however that the contrary is the prevailing opinion; and that in every action for a Libel, if specific instances can be stated upon the record so as to support the general charge of the Libel, the courts would determine them to be a sufficient justification of the defendant. 1 Term Rep. 748.

It is not competent to a defendant charged with having published a Libel, to prove that a paper, similar to that for the publication of which he is prosecuted, was published on a former occasion by other persons who have never been prosecuted for it. 5 Term Rep. 436.

IV. The punishment of Libellers for either making, repeating, printing, or publishing the Libel, is fine, and such corporal punishment (as imprisonment, pillory, &c.) as the Court in its discretion shall inflict; regarding the quantity of the offence, and the quality of the offender. 1 Hawk. P. C. c. 73. § ult.

If a printer print a Libel against a private person, he may be indicted and punished for it; and so may he who prints a Libel against a Magistrate, and much more one who does it against the King and State; nor can a person in such a case excuse himself by saying they were dying speeches, or the words of dying men; for a man may at his death justify his villany; and he who publishes it is punishable: and it is no excuse for the printing or publishing a Libel, to say that he did it in the way of trade, or to maintain his family. 1 St. Tr. 982, 986.

Also if booksellers, &c. publish or sell Libels, though they know
not the contents of them, they are punishable. It has been resol-
ed, that where persons write, print, or sell, any pamphlets, scan-
dalizing the public, or any private persons, such libellous books may
be seized, and the persons punished by law: and all persons exposing
any books to sale, reflecting on the Government, may be punished;
also writers of news, (though not scandalous, seditious, or reflecting on
the Government, if they write false news,) are indictable. 2 St. Tr.
477. See Scandalum magnatum; False News.

One was indicted for a Libel in scandalizing the King’s witnesses,
and reflecting on the justice of the nation, and had judgment of the
pillory and fine. 3 St. Tr. 50. A person for libelling the Lord Chan-
cello Bacon, affirming that he had done injustice, and other scanda-
alous matter, was sentenced to pay 1000l. fine, to ride on a horse with
his face to the tail from the Flet to Westminster, with his fault writ-
ten on his head, to acknowledge his offence in all the Courts at West-
minster, stand in the pillory, and that one of his ears should be cut off
at Westminster, and the other in Cheapside, and to suffer imprison-
ment during life. Poth. 155. One who exhibited a Libel against a
Lord Chief Justice, directed to the King, calling the Chief Justice,
traitor, perjured judge, &c. had judgment to stand in the pillory, was
fined 1000 marks, and bound to good behaviour during life. Cr. Car.
125.

With regard to Libels in general, there are, as in many other
cases, two remedies; one by indictment or information, and the other
by action. The former for the public offence; for, as has been re-
peatedly remarked, every Libel has a tendency to the breach of the
peace, by provoking the person libelled to break it; which offence,
we have seen, is the same in point of law, whether the matter con-
tained be true or false; and therefore it is that the defendant, on an
indictment for publishing a Libel, is not allowed to allege the truth of
it by way of justification. But in the remedy by action on the case,
which is to repair the party in damages for the injury done him, the
defendant may, as for words spoken, justify the truth of the facts, and
shew that the plaintiff has received no injury at all. The chief excel-
ence therefore of a civil action for a Libel consists in this, that it not
only affords a reparation for the injury sustained, but it is a full vin-
dication of the innocence of the person traduced. See 3 Com. c. 8. p.
25, 6, & n.

It hath been held, that writing a seditious Libel is not an actual
breach of the peace; and that a member of parliament writing such
Libel, is entitled to his privilege from being arrested for the same.
2 Wils. 159, 251. But see title, Parliament IV. 2. ad fn.

In information and law proceedings, there are two ways of descri-
bining a Libel; by the sense, and by the words: the first is cujus tenor
sequitur, and the second quae sequitur in habe Anglicana verba, &c., in
which the description is by particular words, and whereof every word
is a mark; so that if there is any variance, it is fatal; in the other de-
scription by the sense, it is not material to be very exact in the words,
because the matter is described by the sense of them. 2 Salk. 660.
See Indictment; Information; Pleading.

The declaration for a Libel must lay it to be, “of and concerning
the plaintiff,” otherwise there can be no judgment. 2 Strange 934.

It has been frequently determined, that in the trial of an indict-
ment for a Libel the only questions for the consideration of the Jury
are the fact of publishing, and the truth of the inuenoe that is, the truth of the meaning and sense of the passages of the Libel, as stated and averred in the record; whether the matter be or be not a Libel is a question of law for the consideration of the Court. 3 Term Rep. 428. But see the stat. 32 Geo. 3. c. 60; and this Dictionary, title Jury IV. 2.

When a person is brought before the Court to receive judgment for a Libel, his conduct subsequent to his conviction may be taken into consideration, either by way of aggravation or mitigation of his punishment. 3 Term Rep. 432.

In all the instances where blasphemous, immoral, treasonable, schismatical, seditious, or scandalous Libels are punished by the English law, some with a greater, others with a less degree of severity, the Liberty of the Press, properly understood, is by no means infringed or violated. The Liberty of the Press is, indeed, essential to the nature of a Free State; but this consists in laying no previous restraints upon publications; and not in freedom from censure for criminal matter, when published. Every freeman has an undoubted right to lay what sentiments he pleases before the public: to forbid this is to destroy the freedom of the Press: but if he publishes what is improper, mischievous, or illegal, he must take the consequence of his own temerity. To subject the press to the restrictive power of a Licenser, as was formerly done both before and since the Revolution, is to subject all freedom of sentiment to the prejudices of one man; and make him the arbitrary and infallible Judge of all controverted points in Learning, Religion, and Government. But to punish, as the law does at present, any dangerous or offensive writings, which, when published, shall on a fair and impartial trial be adjudged of a pernicious tendency, is necessary for the preservation of Peace and Good Order of Government and Religion, the only solid foundation of Civil Liberty. Thus, the will of individuals is still left free; the abuse only of that free-will is the object of legal punishment. Neither is any restraint hereby laid upon freedom of thought or inquiry: liberty of private sentiment is still left. The disseminating or making public of bad sentiments, destructive to the ends of society, is the crime which Society corrects. A man (says a fine writer on this subject) may be allowed to keep poisons in his closet, but not publicly to vend them as cordials. And to this we may add, that the only plausible argument heretofore used in the restraining of the just freedom of the press, "that it was necessary to prevent the daily abuse of it," will entirely lose its force when it is shewn, (by a seasonable exertion of the laws,) that the press cannot be abused to any bad purpose, without incurring a suitable punishment; whereas it can never be used to any good one, when under the control of an Inspector. So true it will be found, that to ensure the licentiousness, is to maintain the liberty of the Press. 4 Comm. c. 11, ad fin.

The above observations deserve the serious attention of every Juryman, who wishes well to the constitution and happiness of his country; to them we shall only add the remark of another celebrated writer on this subject.—The danger of such unbounded liberty, (of unlicensed printing,) and the danger of bounding it, have produced a problem in the science of Government, which human understanding seems hitherto unable to solve. If nothing may be pub-
lished but what civil authority shall have previously approved, Power
must always be the standard of Truth; if every dreamer of innova-
tions may propagate his projects, there can be no settlement; if
every murmur at Government may diffuse discontent, there can be
no peace; and if every sceptic in theology may teach his follies,
there can be no religion. The remedy against these evils is to pun-
tish the Authors; for it is yet allowed that every Society may punish,
though not prevent, the publication of opinions which that Society
shall think pernicious. But this punishment, though it may crush
the author, promotes the book; and it seems not more reasonable to
leave the right of printing unrestrained, because writers may after-
wards be censured, than it would be to sleep with doors unbolted,
because by our laws we can hang a thief. Johnson, in vitâ Milton.

For further matter connected with Libels, see titles Words; Scand-
alum Magnatum; Treason; False News, &c.

LIBEL, in the Spiritual Court, from libellus, a little book: the
original Declaration of any action in the civil law. See stat. 2 Ed.
6. c. 13.

If upon a libel for any ecclesiastical matter, the defendant make a
surmise in B. R, to have a prohibition, and such surmise be insuffi-
cient, the other party may shew it to the Court, and the Judges will
discharge it. 1 Leon. 10. 128. The Libel used in ecclesiastical pro-
ceedings, consists of three parts. 1. The major proposition, which
shews a just cause of the petition. 2. The narration, or minor pro-
position. 3. The conclusion, or conclusive petition, which conjoins
both propositions, &c. 3 Comm. 100.

LIBER NIGER, See Black-book.

LIBERA, A livery or delivery of so much grass or corn to a
customary tenant, who cut down or prepared the said grass or corn,
and received some part or small portion of it as a reward or gra-
uitу. Cowell.


LIBERA CHASEA HABENDA, A judicial writ granted to a
person for a free chase belonging to his manor; after proof made
by inquiry of a Jury, that the same of right belonged to him. Reg.
Orig. 36.

LIBERAM LEGEM, amittere liberam legem, is to become infa-
mous, and not to be accounted liber et legalis homo. See titles Battle;
Champion.

LIBERA PISCARIA, A free fishery, which being granted to
one, he hath a property in the fish, &c. 2 Sulk. 637. See title Fish,
Fisheries, and Fishing.

LIBER TAURUS. A free bull. Norf. 16 Ed. 1.

LIBERWARA. See Wara.

LIBERATE, A writ that lies for the payment of a yearly pen-
sion or other sum of money granted under the Great Seal, and di-
rected to the Treasurer and Chamberlains of the Exchequer, &c. for
that purpose. In another sense it is a writ to the Sheriff of a county
for the delivery of possession of lands and goods extended, or taken
upon the forfeiture of a recognisance. Also a writ issuing out of the
Chancery directed to a gaoler for delivery of a prisoner that hath
put in bail for his appearance. F. N. B. 132: 4 Inst. 116. This writ
is most commonly used for delivery of goods, &c. on an extent; and
by the extent the conusee of a recognisance hath not any absolute
interest in the goods, until the Liberate. 2 Lill. 169. It has been ad-
judged, that where an extent is upon a statute-merchant, there
needs no Liberate, for the Sheriff may deliver all in execution
without it; but where an extent is upon a statute-staple, or a recogn-
isance, there must be a return made of such an extent, and then a
Liberate before there can be a delivery in execution. 3 Salk. 159. See
titles Extent; Execution.

LIBERATIO, Money, meat, drink, clothes, &c. yearly given and
delivered by the Lord to his domestic servants. Blount.

LIBERTAS ECCLESIASTICA. This is a frequent phrase in our
old writers, to signify church liberty, or ecclesiastical immunities:
the right of investiture extorted from our Kings by force of papal
power, was at first the only thing challenged by the clergy, as their
Libertas ecclesiastica: but by degrees, under weak princes and pre-
vailing factions, under the title of 'church liberty,' they contended
for a freedom of their persons and possessions from all secular
power and jurisdiction, as appears by the canons and decrees of the
Council held by Boniface, Archbishop of Canterbury, at Merton,
A. D. 1258, and at London, A. D. 1260, &c.owell.—See Lord Lit-
tleton's Hist. of Henry II. and Robertson's Hist. of Emp. C. V.

LIBERATE PROBANDA, An antient writ which lay for such
as, being demanded for villeins, offered to prove themselves free;
directed to the Sheriff that he should take security of them for the
proving of their freedom before the Justices of assise, and that in the
mean time they should be unmolested. F. N. B. 77. See titles
Tenures; Villein.

LIBERATIBUS ALLOCANDIS, A writ lying for a citizen
or burgess, impleaded contrary to his liberty, to have his privilege
allowed. Reg. Orig. 262. And if any claim a special liberty to be
impleaded within a city or borough, and not elsewhere, there may
be a special writ de Liberatiibus allocandis, to permit the burgesses
to use their liberties, &c. These writs are of several forms, and
may be used by a Corporation, or by any single person, as the case
shall happen. New Nat. Br. 509, 510. The Barons of the Cinque
Ports, &c. may sue forth such writs, if they are delayed to have
their liberties allowed them. Ibid.

LIBERATIBUS EXIGENDIS IN ITINERE, An antient
writ whereby the King commands the Justices in Eyre, to admit
of an attorney for the defence of another man's liberty. Reg. Orig.
19.

LIBERTIES or FRANCHISES. These are synonimous terms,
and their definition is, a royal privilege or branch of the King's pre-
rogative, subsisting in the hands of a Subject. The kinds of them
are various, and almost infinite. See title Franchise.

A LIBERTY, A privilege held by grant or prescription, by which
men enjoy some benefit beyond the ordinary Subject. Bract.

LIBERTY,

In its most general signification, is said to be a power to do as
one thinks fit; unless restrained by the Law of the land: and it is
well observed, that human nature is ever an advocate for this
Liberty; it being the gift of God to man in his creation; therefore
every thing is desirous of it, as a sort of restitution to its primitive state. Fortesc. 96. It is upon that account the laws of England in all cases favour Liberty, and which is accounted very precious, not only in respect of the profit which every one obtains by his Liberty, but also in respect of the public. 2 Lib. Abr. 169.

According to Montesquieu, Liberty consists principally in not being compelled to do any thing which the law does not require; because we are governed by civil laws, and therefore we are free, living under those laws. Spirit of Laws, lib. 26. c. 20.

The absolute Rights of Man, considered as a free agent, endowed with discernment to know good from evil, and with power of choosing those measures which appear to him to be the most desirable, are usually summed up in one general appellation, and denominated The Natural Liberty of Mankind. This Natural Liberty consists properly in a power of acting as one thinks fit, without any restraint or control, unless by the Law of nature; being a right inherent in us by birth, and one of the gifts of God to man at his creation, when he endowed him with the faculty of free will. 1 Comm. c. 1.

But every man, when he enters into Society, gives up a part of his Natural Liberty, as the price of so valuable a purchase; and, in consideration of receiving the advantages of mutual commerce, obliges himself to conform to those laws which the Community has thought proper to establish. This species of legal obedience and conformity, is infinitely more desirable than that wild and savage Liberty which is sacrificed to obtain it. For no man who considers a moment, would wish to retain the absolute and uncontrolled power of doing whatever he pleases; the consequence of which is, that every other man would also have the same power; and then there would be no security to individuals in any of the enjoyments of life. See Mont. Spirit of Laws, lib. 11. c. 3.

Political or Civil Liberty, therefore, which is that of a member of Society, is no other than Natural Liberty, so far restrained by human laws, and no farther, as is necessary and expedient for the general advantage of the Public. 1 Comm. c. 1. p. 125.

Hence we may collect that the Law, which restrains a man from doing mischief to his fellow-citizens, though it diminishes the Natural, increases the Civil, Liberty of mankind: but that every wanton and causeless restraint of the will of the Subject, whether practised by a Monarch, a Nobility, or a Popular Assembly, is a degree of tyranny: nay, that even laws themselves, whether made with or without our consent, if they regulate and constrain our conduct in matters of mere indifference without any good end in view, are regulations destructive of Liberty; whereas, if any public advantage can arise from observing such precepts, the control of our private inclinations, in one or two particular points, will conduce to preserve our general freedom in others of more importance, but supporting that state of Society which alone can secure our independence. So that Laws, when prudently framed, are by no means subversive, but rather introductory of Liberty; for where there is no Law there is no freedom. Locke on Gov. part 2. § 57. But then, on the other hand, that constitution or form of Government, that system of laws is alone calculated to maintain Civil Liberty, which leaves the Subject entire master of his own conduct, except in those points wherein the public good requires some direction or restraint. 1 Comm. 125, 6.
The above definition of the learned commentator is admitted by his latest editor to be clear, distinct, and rational, as far as relates to Civil Liberty; in the definition of which, however, he adds, it ought to be understood, or rather expressed, that the restraints introduced by the law should be equal to all; or as much so as the nature of things will admit. 1 Comm. 126, *n.*

Political Liberty is distinguished by Mr. Christian from Civil Liberty, and he defines it to be, the security with which from the constitution, form, and nature of the established Government, the Subjects enjoy Civil Liberty. No ideas, continues he, are more distinguishable than those of Civil and Political Liberty; yet they are generally confounded; and the latter cannot yet claim an appropriate name. The learned Judge (Blackstone) uses Political and Civil Liberty indiscriminately; but it would perhaps be convenient uniformly to use those terms in the respective senses here suggested, or to have some fixed specific denominations of ideas which, in their naures, are so widely different. The last species of Liberty has, probably more than the rest, engaged the attention of Mankind, and particularly of the People of England. Civil Liberty, which is nothing more than the impartial administration of equal and expedient laws, they have long enjoyed nearly to as great an extent as can be expected under any human establishment; and under a King who has no power to do wrong, yet all the prerogatives to do good, with the two Houses of Parliament, the people of England have a firm reliance that this Civil Liberty is secure, and that they shall retain and transmit its blessings, and those of Political Liberty also, to the latest posterity. See 1 Comm. 126, *n.*

There is another common notion of Liberty, which is nothing more than the freedom from confinement. This is a part of Civil Liberty; but it being the most important part, as a man in a gaol can have but the exercise and enjoyment of few rights, it is κατ᾽ ἔξοχον, called Liberty.

The different definitions of the term Liberty, here given and commented upon, should not be thought tautologous or uninteresting; since it is a word which it is of the utmost importance to mankind that they should clearly comprehend; for though a genuine spirit of Liberty is the noblest principle that can animate the heart of Man, yet Liberty, in all times, has been the clamour of men of profligate lives and desperate fortunes: *Falso Libertatis vocabulum obtendi ab iis, qui, privatim de generis, in publicum extiosi, nihil spei nisi per discordias habeant, Tuc. Ann. 11. c. 17.*

The idea and practice of this Political or Civil Liberty flourish in their highest vigour in these kingdoms; where it falls little short of perfection, and can only be lost or destroyed by the folly or demerits of its owners: the Legislature, and of course the laws of England, being particularly adapted to the preservation of this inestimable blessing, even in the meanest Subject. 1 Comm. 126, *7.*

The absolute rights of every Englishman, (which, taken in a political and extensive sense, are usually called their Liberties,) as they are founded on nature and reason, so they are coeval with our form of Government, though subject at times to fluctuate and change; their establishment, excellent as it is, being still human. At some times we have seen them depressed by overbearing and tyrannical princes: at others, so luxuriant as even to tend to anarchy a worse
state than tyranny itself; as any government is better than none at all. But the vigour of our free constitution has always delivered the nation from these embarrassments; and as soon as the convulsions consequent on the struggle have been over, the balance of our Rights and Liberties has settled it to its proper level; and their fundamental articles have been, from time to time, asserted in parliament as often as they were thought to be in danger.

First, By the Great Charter of Liberties, which was obtained, sword in hand, from King John; and afterwards, with some alterations, confirmed in Parliament by King Henry III, his son; which Charter contained very few new grants; but as Sir Edward Coke observes, (2 Inst. proœm.) was for the most part declaratory of the principal grounds of the fundamental laws of England. — Afterwards by the statute called Confirmatio Cartarum, 25 Ed. I, whereby the Great Charter is directed to be allowed as the Common Law: all judgments contrary to it are declared void; copies of it are ordered to be sent to all the cathedral churches, and read twice a year to the people; and sentence of excommunication is directed to be as constantly denounced against all those who by word, deed, or counsel, act contrary thereto, or in any degree infringe it. Next, by a multitude of subsequent corroborating statutes from Edw. I. to Henry IV; of which the following are the most forcible.

Stat. 25 Edw. 3. st. 5. c. 4. None shall be taken by petition or suggestion made to the King or his Council, unless it be by indiction of lawful people of the neighbourhood, or by process made by writ original at the Common Law. And none shall be put out of his franchises or freehold, unless he be duly brought to answer, and forejudged by course of law; and if any thing be done to the contrary, it shall be redressed and holden for none.

Stat. 42 Ed. 3. c. 3. No man shall be put to answer without presentment before Justices; or matter of record of due process, or writ original, according to the antient law of the land. And if anything be done to the contrary, it shall be void in law, and held for error.

After a long interval these Liberties were still further confirmed by The Petition of Right; which was a parliamentary declaration of the Liberties of the people, assented to by King Charles I. in the beginning of his reign; and is classed among our statutes as 3 Car. 1. c. 1: By this it was provided that no one should be compelled to make, or yield any gift, loan, benevolence, tax, or such like charge without consent by act of Parliament: (as to which Liberty or Privilege, See also stat. 25 E. 1. cc. 5, 6; 34 E. 1. st. 4. c. 1. & 14 E. 3. st. 2. c. 1.) — This Petition of Right was closely followed by the still more ample concessions made by that unhappy Prince to his Parliament; (particularly the dissolution of the Star-chamber, by stat. 16 Car. 1. c. 10;) before the fatal rupture between them; and by the many salutary laws, particularly the Habeas Corpus Act, passed under King Charles II.

To these succeeded The Bill of Rights, or Declaration delivered by the Lords and Commons to the Prince and Princess of Orange, February 13, 1688; and afterwards enacted in Parliament, when they became King and Queen; which is as follows:—

Stat. 1 W. & M. st. 2. c. 2. § 1. Whereas the Lords Spiritual and Temporal, and Commons assembled at Westminster, representing all the Estates of the People of this realm, did upon the 13th of February 1688, present unto their Majesties, then Prince and Princess of Orange, a declaration, containing that,
The said Lords Spiritual and Temporal, and Commons, being assembled in a full and free representative of this nation, for vindicating their antient rights and liberties, Declare,

That the pretended power of suspending of laws, or the execution of laws, by regal authority, without consent of Parliament, is illegal;

That the pretended power of dispensing with laws, or the execution of laws, by regal authority, as it hath been assumed and exercised of late, is illegal;

That the commission for erecting the late Court of Commissioners for ecclesiastical causes, and all other commissions and courts of like nature, are illegal and pernicious;

That levying money for or to the use of the Crown, by pretence of prerogative, without grant of Parliament, for longer time, or in other manner than the same is or shall be granted, is illegal;

That it is the right of the Subjects to petition the King; and all commitments and prosecutions for such petitioning, are illegal;

That the raising or keeping a standing army within the kingdom in the time of peace, unless it be with consent of Parliament, is against law;

That the Subjects which are Protestants may have arms for their defence suitable to their conditions, and as allowed by law;

That elections of members of Parliament ought to be free;

That the freedom of speech, and debates or proceedings in Parliament, ought not to be impeached or questioned in any court or place out of Parliament;

That excessive bail ought not to be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted;

That Jurors ought to be duly impanelled and returned, and Jurors which pass upon men in trials for high treason ought to be freeholders;

That all grants and promises of fines and forfeitures of particular persons before conviction, are illegal and void;

And for redress of all grievances, and for the amending, strengthening, and preserving of the laws, Parliaments ought to be held frequently;

And they do claim, demand, and insist upon all and singular the premises, as their undoubted rights and liberties; and that no declarations, judgments, doings, or proceedings, to the prejudice of the People in any of the said premises, ought in any wise to be drawn hereafter into consequence or example:

Sect. 6. All and singular the Rights and Liberties asserted and claimed in the said Declaration are the true, antient, and indubitable Rights and Liberties of the People of this Kingdom, and so shall be esteemed, allowed, adjudged, and taken to be; and all the particulars aforesaid shall be firmly holden as they are expressed in the said Declaration; and all officers shall serve their Majesties according to the same in all times to come.

Sect. 12. No dispensation by non obstante of any statute shall be allowed, except a dispensation be allowed of in such statute; and except in such cases as shall be specially provided for during this session of Parliament.

Sect. 13. No charter granted before the 23d of October 1689, shall be invalidated by this act; but shall remain of the same force as if this act had never been made.
Lastly, These Liberties were again asserted at the commencement of the present century, in the Act of Settlement stat. 12 & 13 W. 3. c. 2, whereby the Crown was limited to his present Majesty's illustrious House; and some new provisions were added at the same fortunate event, for better securing our Religion, Laws, and Liberties, which the statute declares to be "the birth-right of the people of England," according to the antient doctrine of the Common Law.

Thus much for the Declaration of our Rights and Liberties. The Rights themselves thus defined by these several statutes, consist in a number of private immunities; which will appear, from what has been premised, to be indeed no other than either that residuum of Natural Liberty, which is not required by the laws of Society to be sacrificed to public convenience; or else those civil privileges which Society hath engaged to provide in lieu of the Natural Liberties so given up by individuals. These, therefore, were formerly, either by inheritance or purchase, the rights of all mankind; but in most other countries of the world, being now more or less debased or destroyed, they at present may be said to remain, in a peculiar and emphatical manner, the Rights of the People of England.

These Rights may be reduced to three principal or primary articles:

The Right of Personal Security.
The Right of Personal Liberty.
The Right of Private Property.

As there is no other known method of compulsion, or of abridging man's natural free will, but by an infringement or diminution of one or other of these important Rights, the preservation of these, inviolate, may justly be said to include the preservation of our civil immunities in their largest and most extensive sense. 1 Comm. 129.

The Right of Personal Security consists in a person's legal and uninterrupted enjoyment of his life, his limbs, his body, his health, and his reputation. The enjoyment of this right is secured to every Subject by the various laws made for the punishment of those injuries, by which it is any way violated; for a particular detail of which, see this Dictionary, titles Assault; Homicide; Maimem; Libel; Nuisance, &c.

Life, however, may, by the divine permission, be frequently forfeited for the breach of those laws of Society which are enforced by the sanction of capital punishments. On this subject it is sufficient at present to observe, that whenever the constitution of a State vests in any man, or body of men, a power of destroying at pleasure, without the direction of laws, the lives or members of the Subject, such constitution is in the highest degree tyrannical; and that whenever any laws direct such destruction for light and trivial causes, such laws are likewise tyrannical, though in an inferior degree; because here the Subject is aware of the danger he is exposed to, and may, by prudent caution, provide against it. The Statute Law of England does therefore very seldom, and the Common Law does never, inflict punishment extending to life or limb, unless upon the highest necessity; and the constitution is an utter stranger to any arbitrary power of killing or maiming the Subject without the express warrant of law. The words of the Great Charter, c. 29, are "Nullus liber homo capiatur, imprisonetur, vel aliqo modo destruatnr, nisi per legale judicium parorn suorum art per legem terra. No Freeman shall be taken, imprisoned, or any way destroyed, unless by the
lawful judgment of his peers, or by the law of the land." Which words, aliquo modo destruatur, according to Coke, include a prohibition not only of killing or maiming, but also of torturing; (to which our laws are strangers,) and of every oppression by colour of an illegal authority. And it is enacted by stat. 5 E. 3. c. 9, that no man shall be attached by any accusation, nor forejudged of life or limb, nor shall his lands or goods be seised into the King's hands contrary to the Great Charter, and the law of the land. And again by stat. 28 E. 3. c. 3, that no man shall be put to death without being brought to answer by due process of law. 1 Comm. 133.

The Right of Personal Liberty consists in the power of locomotion, of changing situation, or moving one's person to whatsoever place one's own inclination may direct; without imprisonment or restraint, unless by due course of law. On this right there is at present no occasion to enlarge. For the provisions made by the laws of England to secure it, see this Dictionary, titles Habeas Corpus; False Imprisonment; Bail; Arrest; &c. &c.

The absolute Right of Property, inherent in every Englishman, consists in the free use, enjoyment, and disposal of all his acquisitions, without any control or diminution, save only the laws of the land. The origin of private property is probably founded in nature; but certainly the modifications under which we at present find it, the method of conserving it in the present owner, and of translating it from man to man, are entirely derived from Society: and are some of those civil advantages in exchange for which every individual has resigned a part of his Natural Liberty. The laws of England are, therefore, in point of honour and justice, extremely watchful in ascertaining and protecting this right. Upon this principle the Great Charter, c. 29, has declared, that no freeman shall be disseised or divested of his freehold, or of his Liberties or free customs, (or be outlawed, banished, or otherwise destroyed, nor shall the King pass or send upon him,) but by the judgment of his peers, or by the law of the land. And by a variety of antient statutes it is enacted, that no man's lands or goods shall be seised into the King's hands, against the Great Charter and the law of the land: and that no man shall be disinherit, nor put out of his franchises or freehold, unless he be duly brought to answer and be forejudged by course of law; and if any thing be done to the contrary, it shall be redressed and holden for none. See stats. 5 E. 3. c. 9: 25 E. 3. st. 5. c. 4: ante 28 E. 3. c. 3.

So great moreover is the regard of the law for private property, that it will not authorise the least violation of it; no, not even for the general good of the whole community. In instances where the property of an individual is necessary to be obtained for the accommodation of the public, as in the case of enlarging or turning highways, all that the Legislature does, is to oblige the owner to alienate his possessions for a reasonable price; and even this is an exertion of power indulged with caution, and which none but the Legislature, or those acting under their immediate direction, can perform. See stats. 13 Geo. 3. c. 78; and this Dictionary, title Highways.

Another effect of this right of private property is, that no Subject of England can be constrained to pay any aids or taxes, even for the defence of the realm, or the support of the government, but such as are imposed by his own consent or that of his representatives in Parliament. By stat. 25 Ed. 1. c. 5, 6, it is provided, that the King
shall not take any aids or tasks, but by the common assent of the realm. And what the common assent is, is more fully explained by the instrument usually called the Statute de Taliagione concedendo, usually classed as Stat. 34 Ed. 1. st. 4. c. 1; which enacts that no taliage or aid shall be taken, without the assent of the Archbishops, Bishops, Earls, Barons, Knights, Burgesses, and other freemen of the land: and again, by stat. 14 Ed. 3. st. 2. c. 1, the Prelates, Earls, Barons, and Commons, Citizens, Burgesses, and Merchants, shall not be charged to make any aid, if it be not by the common assent of the great men and Commons in Parliament. And as this fundamental law had been shamefully evaded, under many preceding Princes, by compulsive loans and benevolences, extorted without a real and voluntary consent, it was made an article in the Petition of Right, 3 Car. 1, that no man shall be compelled to yield any gift, loan, or benevolence, tax, or such like charge, without common consent by act of Parliament. And, lastly, by the Bill of Rights, stat. 1 W. & M. st. 2. c. 2, it is declared, that levying money for or to the use of the Crown by pretence of prerogative, without grant of Parliament, or for longer time, or in other manner than the same is or shall be granted, is illegal. 1 Comm. 140.

The above is a short view of the principal absolute rights which appertain to every Englishman; and the Constitution has provided for the security of their actual enjoyment, by establishing certain other auxiliary, subordinate, rights, which serve principally as outworks or barriers to protect and maintain those principal rights inviolate. These are,


The Limitation of the King’s Prerogative.

The Right of applying to Courts of Justice for Redress of Injuries.

The Right of Petitioning the King or Parliament.

The Right of having Arms for Defence.

This last auxiliary right of the Subjects of having arms for their defence, suitable to their condition and degree, and such as are allowed by law, is declared by the Bill of Rights; and it is, indeed, a public allowance, under due restrictions of the natural right of resistance and self-preservation, when the sanctions of Society and Laws are found insufficient to restrain the violence of oppression. See this Dictionary, title Arms.

As to the first and second of the subordinate rights above mentioned, see this Dictionary, titles Parliament; King. With respect to the third and fourth some short information is here subjoined.

Since the Law is, in England, the supreme arbiter of every man’s life, liberty, and property, Courts of Justice must at all times be open to the Subject, and the law be duly administered therein. The emphatical words of Magna Carta, c. 29, spoken in the person of the King, who, in judgment of law, (says Sir Ed. Coke,) is ever present, and repeating them in all his Courts, are these: ‘Nulli vendemus, nulli negabimus, aut differamus rectum vel justitiam.—To none will we sell, to none will we deny, or delay, right or justice.’ And therefore every Subject, for injury done to him in his goods, his lands, or his person, by any other Subject, be he ecclesiastical or temporal, without any exception, may take his remedy by the course of law, and
have justice and right for the injury done to him, freely without sale, fully without any denial, and speedily without delay. 2 Inst. 55.

It were endless to enumerate all the affirmative acts of Parliament wherein justice is directed to be done according to the law of the land; and what that law is every Subject knows, or may know if he pleases; for it depends not upon the arbitrary will of any judge, but is permanent, fixed, and unchangeable, unless by authority of Parliament. A few negative statutes may however be mentioned, whereby abuses, perversions, or delays of justice, especially by the prerogative, are restrained. It is ordained by Magna Carta, c. 29, that no freeman shall be outlawed, that is, put out of the protection and benefit of the law, but according to the laws of the land. By stats. 2 Ed. 3. c. 8: 11 Ric. 2. c. 10, it is enacted, "that no commands or letters shall be sent under the Great Seal, or the Little Seal, the Signet or Privy Seal, in disturbance of the law; or to disturb or delay common right; and though such commandments should come, the Judges shall not cease to do right." This is also made a part of their oath, by stat. 18 Ed. 3. st. 4. And by the Bill of Rights it is declared, that the pretended power of suspending or dispensing with laws, or the execution of laws, by regal authority, without consent of Parliament, is illegal.

Not only the substantial part, or judicial decisions of the law, but also the formal part, or method of proceeding, cannot be altered but by Parliament: for, if once those outworks were demolished, there would be an inlet to all manner of innovation in the body of the law itself. The King, it is true, may erect new Courts of Justice; but then they must proceed according to the old established forms of the Common Law. For which reason it is declared in the stat. 16 Car. 1. c. 10, upon the dissolution of the Court of Star-chamber, that neither his Majesty nor his Privy Council have any jurisdiction, power, or authority, by English bill, petition, articles, or libel, (which were the course of proceeding in the Star-chamber borrowed from the Civil Law,) or by any other arbitrary way whatsoever, to examine or draw into question, determine or dispose of the lands or goods of any Subjects of this kingdom; but that the same ought to be tried and determined in the ordinary Courts of Justice, and by course of law. See this Dictionary, titles Judges; Courts; Chancery; &c.

The right of petitioning the King, or either House of Parliament, for the redress of grievances, appertains to every individual in cases of any uncommon injury, or infringement of the rights already particularized, which the ordinary course of law is too defective to reach. The restrictions, for some there are, which are laid upon the right of petitioning in England, while they promote the spirit of peace, are no check upon that of Liberty; care only must be taken, lest, under the pretence of petitioning, the subject be guilty of any riot or tumult; as happened in the opening of the memorable Parliament in 1640.—And to prevent this, it is provided by stat. 13 C. 2. st. 1. c. 5, that no petition to the King or either House of Parliament, for any alteration in Church and State, shall be signed by above twenty persons, unless the matter thereof be approved by three Justices of the peace, or the major part of the Grand Jury in the county; and in London by the Lord Mayor, Aldermen, and Common Council; nor shall any petition be presented by more than ten persons at a time. But, under these regulations it is declared by the Bill of Rights,
that the Subject hath a right to petition; and that all commitments and prosecutions for such petitioning are illegal. The sanction of the Grand Jury may be given either at the Assizes or Quarter Sessions; the punishment for offending against the stat. 13 Car. 2, not to exceed a fine of 100l., and three months' imprisonment. Upon the trial of Lord George Gordon, the Court of King's Bench declared, that they were clearly of opinion, that this statute was not in any degree affected by the Bill of Rights. Doug. 571.

In the several articles above enumerated, consists the Rights, or as they are more frequently termed, the Liberties, of Englishmen. Liberties more generally talked of than thoroughly understood; and yet highly necessary to be perfectly known and considered by every man of rank or property; lest his ignorance of the points whereon they are founded, should hurry him into faction and licentiousness on the one hand, or a pusillanimous indifference, and criminal submission on the other. And all these Rights and Liberties it is our birth-right to enjoy entire, unless where the laws of our country have laid them under necessary restraints: restraints in themselves so gentle and so moderate, as will appear on minute inquiry, that no man of sense or probity would wish to see them slackened: for all of us have it in our choice to do every thing that a good man would desire to do; and are restrained from nothing but what would be pernicious either to ourselves or our fellow-citizens. So that this review of our situation may fully justify the observation that the ENGLISH is the only Nation in the world where Political or Civil Liberty is the direct end of its Constitution. Montesq. Sp. L. xi. 5. See 1 Comm. c. 1, ad fin.

LIBERTY TO HOLD PLEAS, Signifies to have a court of one's own; and to hold it before a Mayor, Bailiff, &c. See Franchise.

LIBLACUM, The manner of bewitching any person; also a barbarous sacrifice. Leg. Athelstan. 6.

LIBRE, ARSE, & PENSATÆ; & AD NUMERUM, A phrase which often occurs in the Domesday Register, and some other memorials of that and the next age— as "Alesbury in Buckinghamshire, the King's manor.—In toto valentiiis reddit lvi libr. arsas & pensatas, & de thelonio x libr. ad numerum, i. e. in the whole value it pays fifty-six pounds burnt and weighed; and for toll ten pounds by tale." For they sometimes took their money ad numerum, by tale in the current coin upon consent; but sometimes they rejected the common coin by tale, and money coined elsewhere than at the King's mint, by cities, bishops, and noblemen who had mints, as of too great alloy, and would therefore melt it down to take it by weight when purified from the dross; for which purpose they had in those times always a fire ready in the Exchequer to burn the money, and then weigh it. Cowell.

LIBRA PENSA, A pound of money in weight. See the preceding article.

LIBRARY. Where a Library is erected in any parish, it shall be preserved for the uses directed by the founders; and incumbents and ministers of parishes, &c. are to give security therefor, and make catalogues of the books, &c. None of the books shall be alienable, without consent of the bishop, and then only where there is a duplicate of such books; if any book shall be taken away and detained, a justice's warrant may be issued to search for and restore the same;
also action of trover may be brought in the name of the proper Ordinary, &c. And bishops have power to make rules and orders concerning Libraries, appoint persons to view their condition, and inquire of the state of them in their visitation. Stat. 7 Ann. c. 14.


LIBRATA TERRÆ, Four oxgangs of land, every oxgang containing thirteen acres. Skene, verb. Bovata terræ. So much land, antiently, as was worth twenty shillings a-year; for in Henry the Third's time, he that had quindecim libras terræ, was to receive the order of knighthood. See Farding-deal.

LICENCE, licentia.] A power or authority given to a man to do some lawful act: and is a personal liberty to the party to whom given, which cannot be transferred over; but it may be made to a man, or his assigns, &c. 12 Hen. 7. 25. There may be a parol Licence, as well as by deed in writing; but if it be not for a certain time, it passes no interest. 2 Nels. Abr. 1123. And if there be no time certain in the Licence; as if a man licence another to dig clay, &c. in his land, but doth not say for how long, the Licence may be countermanded; though if it be until such a time, he cannot. Popb. 151. If a lessor licence his lessee (who is restrained by covenant from aliening without Licence) to alien, and such lessor dies before he aliens, this is no countermand of the Licence: so it is if the lessor grants over his estate. Cro. Jac. 133. But where a lord of a manor for life granteth a licence to a copyhold tenant to alien, and dieth; the Licence is destroyed, and the power of alienation ceaseth. 1 Inst. 52. Copyhold tenants leasing their copyhold for a longer time than one year, are to have a Licence for it; or they incur a forfeiture of their estates. 1 Inst. 63. If any Licence is given to a person, and he abuses it, he shall be adjudged a trespasser ab initio. 8 Rep. 146.

A. grants to B. a way over his ground, or Licence to go through it to the church; by this none but B. himself may go in it; but if one give me Licence to go over his land with my plough, or to cut down a tree therein, and take it away; by this I may take what help is needful to do the same. So if it be to hunt and kill and carry away deer; not if it be to hunt and kill, only. 12 Hen. 7. 25: 13 Hen. 7. 8: 8 Rep. 146. See titles Trespass; Lease; Way; Copyhold, &c.

By Licence a man may practise physic and surgery in London: and do divers other things. Licences are also necessary for the carrying on various trades and professions, on which a duty is laid for the purpose of raising a revenue to Government. See this Dictionary, titles Excise; Taxes.

LICENCE TO ALIEN IN MORTMAIN. Alienations in Mortmain to ecclesiastical persons, &c. are restrained by several statutes; but the King may grant Licences to any person or bodies politic, &c. to alien or hold lands in Mortmain. See stat. 7 & 8 W. 3. c. 37; and this Dictionary, titles Mortmain; Charitable Uses.

LICENCE TO ARISE, licentia surgendi.] A Liberty or space of time antiently given by the Court to a tenant to arise out of his bed, who is essoined de malo lecti, in a real action: and it is also the writ thereupon. Bracton. And the law in this case is, that the tenant may not arise or go out of his chamber until he hath been viewed by
knights thereto appointed, and hath a day assigned him to appear; the reason whereof is, that it may be known whether he caused himself to be essoined deceitfully or not; and if the demandant can prove that he was seen abroad before the view or Licence of the Court, he should be taken to be deceitfully essoined, and to have made default. Bracton, lib. 5; Plata, lib. 6. c. 10. See title Essoin.

**Licence to Found a Church**, Granted by the King. See Church.

**Licence to Go to Election** of Bishops, is by Conge d'Esliere directed to the Dean and Chapter to elect the person named by the King, &c. Reg. Writs 294: Stat. 25 H. 8. c. 20. See title Bishops.

**Licence of the King** to go beyond sea may be revoked before the time expires; because it concerns the public good. Jenk. Cent. See title Ne exeat Regnum.

**Licence of Marriage**. Bishops have power to grant Licences for the marrying of persons; and parsons marrying any person without publishing the bans of matrimony, or without Licence, incur a forfeiture of 100l. &c. by stat. 7 & 8 W. 3. c. 35. See also stat. 26 Geo. 2. c. 33; this Dictionary, title Marriage.

**Licence to Erect a Park, Warren, &c.** See titles Park; Warren.

**Licensing of Books**, See Libell; Printing.

**Licentia Concordandi**, Is that Licence for which the King's silver is paid on passing a Fine. See title Fine of Lands.

**Licentia Surgendi**, See Licence to arise.

**Licentia Transfretandi**, A writ or warrant directed to the keeper of the port of Dover, or other sea-port, commanding them to let such persons pass over sea, who have obtained the King's Licence thereunto. Reg. Orig. 193.

**Lidferd Law**, A proverbial speech, intending as much as to hang a man first, and judge him afterwards.

**Liege, ligeus.** Is used for Liege Lord, and sometimes for Liege Man: Liege Lord is he that acknowledgeth no superior; and Liege Man is he who oweth allegiance to his Liege Lord. The King's Subjects are called Liege People, because they owe and are bound to pay allegiance to him. Stats. 8 Hen. 6. c. 10: 14 Hen. 8. c. 2. But in antient times, private persons, as lords of manors, &c. had their Lieges. Skene saith, that this word is derived from the Italian, Liga, a bond or league; others derive it from Litas, which is a man wholly at the command of the Lord. Blount. See title Allegiance.

**Lieges and Liege People, Ligati.** See Liege.

**Lien, Fr.** Is a word used in the law, of two significations: personal Lien, such as bond, covenant, or contract; and real Lien, a judgment, statute, recognisance, which oblige and affect the land. Terms de Ley.

It signifies an obligation, tie, or claim annexed to, or attaching upon, any property; without satisfying which such property cannot be demanded by its owner. Thus the costs of an attorney are a Lien upon deeds and papers in his hands; a factor has a Lien on goods in his hands for balance due from his principal, &c. See titles Attorney; Factor; Mortgage; Judgment, &c.

The Lien of a common carrier for his general balance, however it may arise in point of law from an implied agreement to be inferred
from a general usage of trade, proved by instances sufficiently nu-
merous and general, to warrant so extensive a conclusion, affecting
the custom of the realm; yet it is not to be favoured, nor can it be sup-
ported by a few recent instances of detention of goods by four or five
carriers for their general balance. But such a lien may be inferred
from evidence of the particular words of dealing between the respec-
tive parties. 5 East's Ref. 519.

LIEU, Instead or in place of another thing. And when one thing
doth come in the place of another, it shall be of the same nature as
that was; as in case of an exchange, &c. 2 Shep. Abr. 359. See title
Exchange.

LIEU CONUS, In law proceedings, signifies a castle, manor, or
other notorious place, well known and generally taken notice of by
those that dwell about it. 2 Lit. Abr. 541. A venire facias, for a Jury
to appear, may be from a lieu conus; and a Fine or Recovery of lands
in a lieu conus, is good: but it is said in a scire facias to have execu-
tion of such fine, the vill or parish must be named. 2 Cro. 574: 2
Mod. Ref. 48, 49.

LIEUTENANT, [locum tenens.] Is the King's Deputy, or he that exer-
cises the King's or any other's place, and represents his person;
as the Lieutenant of Ireland. See stat. 4 Hen. 4. c. 6: 2 & 3 Ed. 6.
c. 2. The Lieutenant of the Ordnance. See stat. 39 Eliz. c. 7. And the
Lieutenant of the Tower, an officer under the Constable, &c. The
word Lieutenant is also used for a military officer, next in command
to the captain.

LIFE ESTATES: Estates of freehold, not of inheritance. Of
these some are conventional, or expressly created by the act of
the parties; others merely legal, or created by construction and
operation of law. See this Dictionary, titles Estates; Dower; Cour-
tesy; Tail; Tail after possibility, &c.

Estates for Life, expressly created by deed or grant, (which alone
are properly conventional,) are, where a lease is made of lands or
tenements to a man to hold for the term of his own Life, or for that
of any other person, or for more Lives than one; in any of which
cases he is styled Tenant for Life; only when he holds the Estate by
Life of another, he is usually called Tenant, pur autre vie; (for
another's Life). Lit. § 56.

These Estates for Life are, like inheritances, of a feudal nature;
and were for some time the highest estate that any man could have
in a feud. See title Tenures. They are given and conferred by the
same feudal rights and solemnities, the same investiture or livery of
seisin, as fees themselves are; and they are held by fealty, if demand-
ed, and such conventional rents and services, as the lord and lessor
and his tenant or lessee have agreed on. 2 Comm. c. 8. p. 120.

Estates for Life may be created, not only by the express words
before mentioned, but also by a general grant, without defining or li-
miting any specific Estate. As if one grant to A. B. the manor of
Dale, this makes the Tenant for Life. Co. Lit. 42. For though, as there
are no words of inheritance or heirs mentioned in the grant, it cannot
be construed to be a fee, it shall however be construed to be as large
an estate as the words of the donation will bear, and therefore an
Estate for Life. Also such a grant at large, or a grant for term of
Life generally, shall be construed to be an Estate for the Life of the
grantee, in case the grantor hath authority to make such a grant; for an estate for a man's own Life is more beneficial and of a higher nature than for any other Life; and the rule of law is, that all grants are to be taken most strongly against the grantor, unless in the case of the King. Co. Lit. 42, 36.

Such Estates for Life will endure, generally speaking, as long as the Life for which they are granted; but there are some Estates for Life which may determine upon future contingencies, before the Life for which they are created expires. As if an Estate be granted to a woman during her widowhood, or to a man until he be promoted to a benefice; in these and similar cases whenever the contingency happens, when the widow marries, or when the grantee obtains a benefice, the respective Estates are absolutely determined and gone. Co. Lit. 42: 3 Rep. 20. Yet while they subsist, they are reckoned Estates for Life: because the time for which they will endure being uncertain, they may, by possibility, last for Life; if the contingencies upon which they are to determine do not sooner happen.

In case an Estate be granted to a man for his Life generally, it may also determine by his civil death; for which reasons, in conveyances the grant is usually made for the term of a man's natural Life, which can only determine by his natural death. This civil death was formerly held to commence if any man was banished or abjured the realm, by the process of the Common Law; (see title Abjuration;) or entered into religion, that is, went into a monastery, and became there a monk professed; in which cases he was absolutely dead in law, and his next heir should have his Estate; for such banished man was entirely cut off from society; and such monk, upon his profession, renounced solemnly all secular concerns. But even in the times of popery the law of England took no cognizance of profession in any foreign country; because the fact could not be tried in our Courts; Co. Lit. 132: and therefore, since the Reformation, this disability is held to be abolished. 1 Salk. 162: as is also the disability of banishment consequent upon abjuration, by stat. 21 Jac. 1. c. 28. One species of civil death may, however, still exist in this country: that is, where a man by act of Parliament, is attainted of treason or felony; and, saving his life, is banished for ever; this Lord Coke declares to be a civil death: but he says, a temporary exile is not a civil death. Under this reasoning, where a man receives judgment of death, and afterwards leaves the kingdom for life, upon a conditional pardon, there can be very little doubt but this amounts to a civil death; this practice did not exist in the time of Lord Coke, who says, that a man can only lose his country by authority of Parliament. 1 Inst. 133. See 1 Comm. c. 1. p. 131, 3, &c.

The incidents to an Estate for Life are principally the following, which are applicable not only to those species of Tenants for Life, which are expressly created by deed, but also to those which are created by act and operation of law. See 2 Comm. c. 8.

First, Every Tenant for Life, unless restrained by covenant or agreement, may, of common right, take upon the land demised to him reasonable estovers or botes. Co. Lit. 41. For he hath a right to the full enjoyment and use of the land and all its profits, during his Estate therein. See titles Estovers; Common of Estovers. But he
is not permitted to cut down timber, or do other waste upon the premises; for the destruction of such things, as are not the temporary profits of the tenement, is not necessary for the tenant's complete enjoyment of his Estate; but tends to the permanent and lasting loss of the person entitled to the inheritance. 1 Inst. 53. See this Dictionary, title Waste.

In the second place, Tenant for Life, or his representatives, shall not be prejudiced by any sudden determination of his Estate; because such a determination is contingent and uncertain. Co. Litt. 55. Therefore, if a Tenant for his own Life sows the lands, and dies before harvest, his executors shall have the emblements or profits of the crop; for the Estate was determined by the hand of God; and it is a maxim in the law, actus Dei nemini facit injuriam. The representatives therefore of the Tenant for Life shall have the emblements, to compensate for the labour and expense of tilling, manuring, and sowing the lands; and also for the encouragement of husbandry, which being a public benefit, tending to the increase and plenty of provisions, ought to have the utmost security and privilege that the law can give it. Wherefore by the feodal law, if a Tenant for Life died, between the beginning of September and the end of February, the Lord who was entitled to the reversion was also entitled to the profits of the whole year; but if he died between the beginning of March and the end of August, the heirs of the Tenant received the whole. From hence our law of emblements seems to have been derived, but with very considerable improvements; and its advantages are particularly extended to the parochial Clergy, by stat. 28 Hen. 8. c. 11: for all persons who are presented to any ecclesiastical benefice, or to any civil office, are considered as Tenants for their own Lives, unless the contrary be expressed in the form of the donation. 1 Comm. c. 8. p. 122, 3. See title Emblements.

A third incident to Estates for Life relates to the under-tenants or lessees. For they have the same, nay greater indulgences than their lessors the original Tenants for Life. The same; for the law of estovers and emblements, with regard to the Tenant for Life, is also law with regard to his under-tenant, who represents him and stands in his place. Co. Litt. 55. Greater; for in those cases where Tenant for Life shall not have the emblements, because the Estate determines by his own act, the exception shall not reach his lessee, who is a third person. As in the case of a woman who holds durante viduitate: her taking a husband is her own act, and therefore deprives her of the emblements; but if she leases her Estate to an under-tenant, who sows the land and she then marries, this her act shall not deprive the tenant of his emblements, who is a stranger, and could not prevent her. Cro. Eliz. 461: 1 Rol. Abr. 727. The lessees of Tenants for Life had also at the Common Law another most unreasonable advantage; for at the death of their lessors, the Tenants for Life, these under-tenants might, if they pleased, quit the premises, and pay no rent to any body for the occupation of the land, since the last quarter-day, or other day assigned for payment of rent. 10 Rep. 127. To remedy which, it is now enacted by stat. 11 Geo. 2. c. 19. § 15, that the executors or administrators of Tenant for Life, on whose death any lease determined, shall recover of the lessee a rateable proportion of rent, from the last day of payment to the death of such lessee. See this Dictionary, titles Rents; Leases.
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By stat. 19 C. 2. c. 6, where persons for whose lives Estates are held, shall absent themselves for seven years, they shall be presumed dead. And by stat. 6 Ann. c. 18, persons for whose lives Estates are held, shall, on application to the Lord Chancellor, be produced. The tenant holding after the determination of the Life, deemed a trespasser. See title Death. Posthumous children enabled to take in remainder, where the Life Estate is determined, Stat. 10 & 11 W. 3. c. 16. See title Occupancy.

LIFE RENT, A rent which a man receives for term of Life, or the sustentation of it. Skene.

LIGEANCE; Legiance, ligentia.] The true and faithful obedience of a Subject to his Sovereign: and is also applied to the territory and dominion of the Liege Lord; as children born out of the Ligeance of the King, &c. Stat. 25 Ed. 3: Co. Lit. 129. See title Allegiance.

LIGHTS. Stopping Lights of a house is a nuisance; but stopping a prospect is not, being only a matter of delight, not of necessity; and a person may have either an assise of nuisance against the person erecting any such nuisance, or he may stand on his own ground and abate it. 9 Rep. 58: 1 Mod. 54. For any nuisance erected or being on the soil of my neighbour, whereby I sustain damage, I may maintain an action on the case. If a man has a vacant piece of ground, and builds thereupon a house, with good Lights, which he sells or lets to another; and after he builds upon ground contiguous, or lets the same to another person, who builds thereupon to the nuisance of the Lights of the first house, the lessee of the first house may have an action on the case against such builder, &c. And though formerly they were to be Lights of an antient messuage, that is now altered. Mod. Cas. 116. 314. See titles Nusance; Trespass.

LIGHTS AND LAMPS: In London and other cities and places, these are regulated by the several local acts.

LIGHT-HOUSE, See Beacon.

LIGNAGIUM, The right of cutting of fuel in woods; and sometimes it is taken for a tribute or payment due for the same.

LIGNAMINA, Timber fit for building. Du-Presne.

LIGULA. A copy or transcript of a court-roll or deed mentioned by Sir John Maynard in his Mem. in Scaccar. 12 Ed. 1.

LIGURITOR, A flatterer. Leg. Canut. 29. Somner is of opinion that it signifies a glutton, from the Saxon licera, gulosus. Cowell.

LIMBS. The Limbs as well as the life of a man are of such high value, in the estimation of the law of England, that it pardons even homicide, if committed se defendendo, or in order to preserve them. 1 Comm. 130. See titles Homicide; Maim; Assault.

LIME AND LEMON-JUICE, Are liable to certain duties on importation. See title Navigation Acts.

LIMITATION,

LIMITATIO.] A certain time, assigned by statute, within which an action must be brought.


III. Of the Time when the Right of Action accrued, so as to be affected by the Statutes; and of the Courts bound thereby.


The time of Limitation is two-fold; first, in writs, by divers acts of Parliament; secondly, to make a title to any inheritance, and that is by the Common Law. Co. Lit. 114, 115.

It seems, that by the Common Law there was no stated or fixed time to bring actions; for though it be said by Bracton, that omnes actiones in mundo infra certa tempora limitationem habent; yet Lord Coke says, that the Limitation of Actions was by force of divers acts of Parliament; also, says he, this general position of Bracton’s admitted of several exceptions. Bract. lib. 2. fol. 228: 2 Inst. 95: Co. Lit. 115: 4 Co. 10, 11.

But by the antient law there was a stated time for the heir of the tenant to claim after the death of his ancestor, that is to say, a year and a day after he was fourteen years old, or else he lost his land, according to the feudal text; Praterea si quis infeudatus major quatuordecim annis sua incuria, vel negligentia haer ann. & dierc sitet, quod feudii infeudaturum ad prœrium domino non hœstis, transacto hæc "scheio, feuudum amittat & ad dominum redeat. Scheil. Gloss. 32.

The fixing upon the period of a year and a day, upon several other occasions, seems to have been deduced from this antient rule; and on this occasion was pitched upon, because the services appointed seem to be annually computed; therefore the feud was ordered to be taken up within such time as such annual services became due, or else it was lost and returned to the lord; and the same time that was appointed to the tenant to claim from the lord was also appointed to make his claim upon any disseisor; and if no such claim was made, the disseisor dying seised cast the right of possession upon the heir; and this was to keep the same uniformity in point of time, through the law, as also that the lord might be at a certainty whom he might take for his tenant, and admit upon every descent; and since the heir of the tenant antiently lost the whole land, in case he did not take it up within time, it was fit the tenant should lose the right and possession, in case he did not claim within the same time upon the disseisor; that the heir of the disseisor might be in peace, in case the person that had right did not make his claim upon him, and that from thenceforth the lord might receive him into his feud; and as upon the antient plan of feudal constitution, if the heir did not take up the feud within a year and a day, a desertion and dereliction was presumed; so also if the disseisee did not claim within the same time, the right of possession was relinquished. Scheil. Gloss. annus et dies 32, 33.

Before the stat. 32 H. 8. c. 2, certain remarkable periods were fixed upon, within which the titles, whereon men designed to be relieved, must have accrued; thus in the time of Hen. III. by the statute of Merton, 20 Hen. 3. c. 8, at which time the Limitation in a
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writ of right was from the time of King Henry I. it is reduced to the time of King Henry II.; and for assises of mort d'ancestor, they were thereby reduced by the last return of King John out of Ireland, which was 12 Johannis; and for assises of novel disseisin, a prima transfractione Regis in Normanniam, which was 5 Hen. 3, and which before that had been post ultimum redditum Henrici 3, de Britannia; and this Limitation was also afterwards by the statutes Westm. 1. (3 Ed. 1.) c. 39, and Westm. 2. (3 Ed. 1.) c. 46, reduced to a narrower compass, the writ of right being limited to the first coronation of Hen. III. For these antient Limitations, see Co. Lit. 14. b; 15. a; 2 Inst. 94, 95: 2 Rot. Abr. 111: Hale's Hist. of the Law, 122: 2 Keb. 45. This last date of Limitation continued so long unaltered, that it became indeed no Limitation at all; it being above three hundred years from Henry III's coronation to the year 1540, when the statute of Limitations, 32 Hen. 8. c. 2, was made. This statute, therefore, instead of limiting actions from the date of a particular event, as before, which in process of years grew abused, took another and more direct course, which might endure for ever, by limiting a certain period of time previous to the commencement of every suit. See 3 Comm. c. 10. ft. 189.

There are now several statutes of Limitation, by which a certain time is prescribed, beyond which no plaintiff can lay his cause of action. This, by stat. 32 Hen. 8. c. 2, in a Writ of Right is 60 years. In assises, writs of entry, or other possessory actions real, of the seisin of one's ancestors in lands: and either of their seisin or one's own, in rents, suits, and services; 50 years. And in actions real for lands grounded upon one's own seisin or possession, such possession must have been within 30 years. By stat. 1 Mary, st. 2. c. 5, this Limitation does not extend to any suit for Advowsons, upon reasons hereafter mentioned. See post. II. 1.

By stat. 21 Jac. 1. c. 2, a time of Limitation was extended to the case of the King, viz. sixty years precedent to February, 19, 1623; 3 Inst. 189; but this becoming ineffectual by efflux of time, the same term of Limitation was fixed, by stat. 9 Geo. 3. c. 16, to commence and be reckoned backwards, from the time of bringing any suit or other process, to recover the thing in question: so that a possession for sixty years is now a bar even against the prerogative, in derogation of the antient maxim, nullum tempus occurrit regi. See this Dictionary, title King, V. 2.

By stat. 21 Jac. 1. c. 16, the time of Limitation in any writ of formedon, is 20 years; and by a consequence, the same term is also the Limitation in every action of Ejectment; for no ejectment can be brought, unless where the lessor of the plaintiff is entitled to enter on the lands; and by this statute (21 Jac.) no entry can be made by any man unless within 20 years after his right shall accrue. And by stat. 4 & 5 Ann. c. 16, no entry shall be of force to satisfy the said statute of Limitations, or to avoid a fine levied of lands, unless an action be thereupon commenced within one year after, and prosecuted with effect. See this Dictionary, titles Ejectment; Entry; Fine.

By the same statute, 21 Jac. 1. c. 16, (which, from the general extent of it to almost all actions, is usually termed emphatically, The Statute of Limitations,) all actions of trespass, (quae clausum fregit, or otherwise,) detinue, trover, replevin, account, and case, (except upon accounts between merchants,) debt on simple contract, or for
arrears of rent, are limited to 6 years after the cause of action commenced; (and see stat. 4 & 5 Ann. c. 16, post. III. ad fin.) Actions of assault, menace, battery, mayhem, and imprisonment, must be brought within 4 years; and actions for words within 2 years after the injury committed: 2 & 4. title Reversal.

By stat. 27 Geo. 3. c. 44, suits in Ecclesiastical Courts for defamatory words must be commenced within six months.

By stat. 31 Eliz. c. 5, all suits, indictments, and informations upon any penal statutes, where any forfeiture is to the Crown alone, shall be sued within 2 years; and when the forfeiture is to a Subject, or to the Crown and a Subject, within one year after the offence committed; unless where any other time is specially limited by the statute. See post. II. 2.

By stat. 10 W. 3. c. 14, no Writ of Error, Scire Facias, or other suit, shall be brought to reverse any Judgment, Fine, or Recovery for error, unless it be prosecuted within 20 years. See this Dictionary, titles Error; Fine of Lands; Judgment; Recovery.

A writ of error to reverse a Common Recovery cannot be brought after twenty years, though the right of the plaintiff in error accrued within that time. 2 Stra. 1257.

No statute has fixed any Limitation to a Bond or Specialty; but where no interest has been paid upon a bond, and no demand proved thereon for twenty years, the Judges recommend it to the Jury to presume it discharged, and to find a verdict for the defendant. 2 Term Rep. 270. See this Dictionary, title Bond.

II. 1. By stat. 32 H. 8. c. 2, it is enacted, "That no person shall from thenceforth sue, have, or maintain, any writ of right, or make any prescription, title, or claim, to or for any manors, lands, tenements, rents, annuities, commons, pensions, portions, corodies, or other hereditaments, of the possession of his or their ancestor or predecessor, and declare and allege any further seisin or possession of his ancestor or predecessor, but only of the seisin or possession of his ancestor or predecessor, which hath been or now is, or shall be seised of the said manors, lands, tenements, rents, annuities, commons, pensions, portions, corodies, or other hereditaments, within three score years next before the teste of the same writ, or next before the said prescription, title, or claim so hereafter to be sued, commenced, brought, made, or had." See title Possession.

And it is further enacted by the said statute, par. 2, "That no manner of person shall sue, have, or maintain any assise of mort d'ancestor, cosenage, ayle, writ of entry upon disseisin, done to any of his ancestors or predecessors, or any manors, lands, tenements, or other hereditaments, of any further seisin or possession of his or their ancestor or predecessor, but only of the seisin or possession of his or their ancestor or predecessor, which was or hereafter shall be seised of the same manors, lands, tenements, or other hereditaments, within fifty years next before the teste of the original of the same writ hereafter to be brought."

It is further enacted, par. 3, "That no person shall sue, have, or maintain any action for any manors, lands, tenements, or other hereditaments, of or upon his or their own seisin or possession therein, above thirty years next before the teste of the original of the same writ hereafter to be brought."
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And further, par. 4, "That no person shall hereafter make any avowry or cognizance for any rent, suit or service, and allege any seisin of any rent, suit, or service, in the same avowry or cognizance in the possession of any other, whose estates he shall pretend or claim to have, above fifty years next, before the making of the said avowry or cognizance."

Fifty years is the true term of Limitation in this instance; though Rastall's and some other editions of the statutes make it only forty years; an error adopted by Coke, (2 Inst. 95,) and other writers. See 3 Comm. c. 10. p. 189, in n.

And it is further enacted by the said statute, par. 5, "That all formedons in reverter, formedons in remainder, and seire facias upon fines of any manors, lands, tenements, or other hereditaments, at any time hereafter to be sued, shall be sued and taken within fifty years next after the title and cause of action fallen, and at no time after the fifty years past."

Note; This statute hath the usual saving, for infants, feme coverts, persons in prison, and beyond sea.

In the construction of this statute it hath been held, that in a formedon in reverter or remainder, or on a seire facias, on a fine of such nature, the demandant need not mention the statute in order to make out his title; but the tenant if he would take advantage of it, must plead it. Dyer 315. b. fl. 101. So in an avowry for rent. Moor 31. fl. 102: 1 Rol. Rep. 50.

It has been held, that this statute being in restraint of the Common Law, ought to be construed strictly; that therefore it does not extend to a formedon in descender, cessavit nor rescous. 4 Co. 8: 1 And. 16: Lit. Rep. 342.

To a bill in Chancery, to be relieved touching a rent-charge upon lands by a will, the defendant pleaded the statute of Limitations, and that there had been no demand or payment in forty years; and it was held, that this statute concerns only customary rents between landlord and tenant, and not any rent that commences by grant, whereof the commencement may be shewn. 2 Vern. 235.

The statute does not extend to the services of escuage, homage, and fealty, for a man may live above the time limited by the act; neither doth it extend to any other service which by common possibility may not happen or become due within sixty years, as to cover the hall of the lord, or to attend the lord in the war, &c. Co. Lit. 115: a: 2 Inst. 95: 4 Co. 10, Bevil's case: 8 Co. 65: 3 Lev. 21.

And where the tenure is by homage, fealty, and escuage uncertain, and by suit of court or rent, or any other annual service, the seisin of the suit or rent, or any other annual service, is a good seisin of the homage, fealty, or escuage, or other accidental services, as wardship, heriot-service, or the like. 2 Inst. 96: 4 Co. 8: b: Winch. 32: Hutt. 50: 2 Rol. Rep. 392.

By stat. 1 Mar. 5; 2. c. 5, it is enacted, "That the stat. 32 Hen. 8. c. 2, shall not extend to any writ of right of advowson, quare impedit, or assise of darrein presentment, nor jus patronatus, nor to any writ of right of ward, writ of ravishment of ward for the wardship of the body, or for the wardship of any castles, honours, manors, lands, tenements, or hereditaments held by knight-service; but that such suits may be brought as before the making of the said act.
There is, therefore, no Limitation with regard to the time within which any actions touching advowsons are to be brought; at least none later than the times of Richard I. and Henry III. And this upon very good reason; because it may easily happen, that the title to an advowson may not come in question, nor the right have opportunity to be tried within 60 years; which is the longest period of Limitation assigned by the stat. 32 Hen. 8. c. 2. For Sir Edward Coke says, that there was a parson of one of his churches that had been incumbent there above fifty years; nor are instances wanting where two successive incumbents have continued for upwards of one hundred years. Had therefore the last of these incumbents been the clerk of an usurper, or had been presented by lapse, it would have been necessary and unavoidable for the patron, in case of a dispute, to have recurred back above a century, in order to have shewn a clear title and seisin, by presentation and admission of the prior incumbent. But though, for these reasons, a Limitation is highly improper with respect only to the length of time, yet as the title of advowsons is, for want of some Limitations, rendered more precarious than that of any other hereditaments, (especially since the stat. 7 Ann. c. 18, hath allowed possessory actions to be brought upon any prior presentation, however distant,) it might perhaps be better if a Limitation were established, with respect to the number of avoidances; or rather if a Limitation were compounded of the length of time and the number of avoidances together: for instance, if no seisin were admitted to be alleged in any of these writs of patronage after sixty years and three avoidances were past. 3 Comm. c. 16. p. 250.

By stat. 21 Jac. 1. c. 16, which the preamble declares to be for quieting men’s estates, and avoiding of suits, it is enacted, “That all writs of formedon in descender, formedon in remainder, and formedon in reverter, at any time hereafter to be sued or brought of or for any manors, lands, tenements, or hereditaments, whereunto any person or persons now hath or have any title, or cause to have or pursue any such writ, shall be sued and taken within twenty years next after the end of this present session of parliament; and after the said twenty years expired, no person or persons, or any of their heirs, shall have or maintain any such writ of or for any of the said manors, lands, tenements, or hereditaments; and that all writs of formedon in descender, formedon in remainder, formedon in reverter, of any manors, lands, tenements, or other hereditaments whatsoever, at any time hereafter to be sued or brought by occasion or means of any title, or cause hereafter happening, shall be sued and taken within twenty years next after the title and cause of action first descended or fallen, and at no time after the said twenty years; and that no person or persons that now hath any right or title of entry, into any manors, lands, tenements, or hereditaments, now held from him or them, shall thereinto enter, but within twenty years next after the end of this present session of parliament, or within twenty years next after any other title of entry accrued; and that no person or persons shall at any time hereafter make any entry into any lands, tenements, or hereditaments, but within twenty years next after his or their right or title, which shall hereafter first descend or accrue to the same; and in default thereof such persons so not entering, and their heirs
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shall be utterly excluded and disabled from such entry after to be
made; any former law, etc.

"Provided, That if any person or persons, that is or shall be
titled to such writ or writs, or that hath or shall have such right
or title of entry, be or shall be, at the time of the said right or title
first descended, accrued, come, or fallen, within the age of one and
twenty years, feme covert, non compos mentis; imprisoned, or beyond
the seas; that then such person and persons, and his and their heir
and heirs, shall or may, notwithstanding the said twenty years be
expired, bring his action, or make his entry, as he might have done
before this act; so as such person and persons, or his or their heir
and heirs, shall within ten years next after his and their full age,
discoverture, coming of sound mind, enlargement out of prison, or
coming into this realm, or death, take benefit of and sue forth the
same, and at no time after the said ten years."

In the construction of this part of this statute it hath been holden,

That the possession of one joint-tenant is the possession of the
other, so far as to prevent this statute. 1 Salk. 285.

That a claim of entry to prevent the statute of Limitations must
be upon the land, unless there be some special reason to the con-
trary. 1 Salk. 285.

That if a person be barred of his formedon, he is not thereby
hindered to pursue his right of entry which afterwards accrues to
him; no more than a person who has several remedies, and dis-
charges one of them, is excluded thereby from pursuing the others.
1 Lutw. 781: 1 Salk. 339: 2 Salk. 422.

If A. has had possession of lands for twenty years without interrup-
tion, and then B. gets possession, upon which A. is put to his eject-
ment; though A. is plaintiff, yet the possession of twenty years shall
be a good title in him, as if he had still been in possession; because
a possession for twenty years is like a descent which tolls entry, and
gives a right of possession, which is sufficient to maintain an eject-
ment. 1 Salk. 421: said to have been twice so ruled by Holt.

If one tenant in common receives the whole profits for twenty
years, or more, yet this does not bar his companion; for the statute
of Limitations never runs against a man, but where he is actually
ousted or disseised. 1 Salk. 423.

Where an Ancestor died seised, leaving a son and daughter in-
fants, and on the death of the ancestor a stranger entered, and the
son soon after went to sea, and was supposed to have died abroad
within age; it was held that the daughter was not entitled to 20
years to make her entry after the death of her brother but only to 10
years; more than 20 years being in the whole elapsed since the death
of the person last seised. 6 East's Rep. 80.

It has been ruled, that copyholds are within the statute of Limita-
tions; because it is an act made for the preservation of the public
quiet, and no ways tending to the prejudice of the lord or tenant.
Moor 410.

Ecclesiastical persons, it has been said, are not bound by any of
the statutes of Limitations, because it would be a side-wind to evade
the statutes made to prohibit their alienations. Conf. Incumb. 429.

2. By stats. 31 Ediz. c. 5. par. 5, it is enacted, "That all actions, suits,
bills, indictments, or informations, which shall be brought for any
forfeiture upon any statute penal, made or to be made, whereby the
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forfeiture is or shall be limited to the Queen, &c. shall be brought within two years after the offence: and that all actions, suits, bills, or informations, which shall be brought for any forfeiture upon any penal statute, made or to be made, except the statutes of tillage, the benefit and suit whereof is or shall be by the said statute limited to the Queen, her heirs or successors, and to any other that shall prosecute in that behalf, shall be brought by any person that may lawfully sue for the same within one year next after the offence committed; and in default of such pursuit, that then the same shall be brought for the Queen’s Majesty, her heirs or successors, any time within the two years after that year ended. Where a shorter time is limited by any penal statute, the prosecution must be within that time.”

Also see stat. 18 Eliz. c. 5; 21 Jac. 1. c. 4; the former requiring a memorandum of the day of exhibiting an information, the latter an oath from the informer.

In the construction of these statutes it hath been holden,

That the stat. 21 Jac. 1. c. 4, does not extend to any offence created since that statute; so that prosecutions on subsequent penal statutes are not restrained thereby; but that statute is to them as it were repealed pro tanto. 1 Salk. 373. 3: 5 Mod. 425. And that the said statute, 21 Jac. 1, only applies to those penal statutes, on which proceedings may be had before the Justices of Assise, Justices of the Peace, &c. 3 Term Rep. 362.

That if an offence prohibited by any penal statute be also an offence at Common Law, the prosecution of it as of an offence at Common Law, is no way restrained by any of these statutes. Hob. 270: 4 Mod. 144.

That if an information tam quam be brought after the year on a penal statute, which gives one moiety to the informer, and the other to the King, it is naught only as to the informer, but good for the King. Cro. Car. 331: Cro. Jac. 366. and vide Dallis. 60.

When the forfeiture is to the Crown and a Subject, a common informer must sue within one year, and the Crown may prosecute for the whole penalty at any time within two years after that year ended. 3 Comm. c. 20. p. 307, in n.

That if a suit on a penal statute be brought after the limited time, the defendant need not plead the statute, but may take advantage of it on the general issue. 1 Show. 333.

That the party grieved is not within the restraint of these statutes, but may sue in the same manner as before. Cro. Eliz. 645: Nay 71: 3 Leon. 237.

It seems doubtful, whether a suit by a common informer on a penal statute, which first gives an action to the party grieved, and in his default, after a certain time, to any one who will sue, be within the restraint of these statutes. 1 Show. 353, 354.

It has been held by three judges, that suing out a latitut within the year was a sufficient commencement of the suit to save the limitation of time on a penal statute; because the latitut is the original in B. R. and may be continued on record as an original. But Holt held otherwise, for the action being for a penalty given by a statute, the plaintiff might have brought an action of debt by original in B. R. because the statute gives the action; and he held, that there was a difference between a civil action, and an action given by statute; for in the first case, the suing out a latitut within the time, and continuing it after-
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wards, will be sufficient; but in the other case, if the party proceeds by bill, he ought to file his bill within time, that it may appear so to be on the record itself. Carth. 232; Show. 353. But upon a writ of error, all the Judges in the Exchequer Chamber held, that a latetiar is a kind of original in the King's Bench. 2 Ld. Raym. 883. And accordingly, in two subsequent cases, it was holden to be a good commencement of the suit in a penal action. 2 Burr. 950; 3 Burr. 1243; Compt. 454.—See as to Limitations of Indictments; and Informations in criminal cases, this Dictionary, titles Appeal; Indictment; Information; Quo Warranto; Treason, &c.

3. By stat. 21 Jac. 1. cap. 16, it is enacted, that all actions on the case for words shall be commenced and sued within two years next after the words spoken, and not after.

In the construction of this branch of the statute it hath been held,

That an action of scandalum magnatum is not within the statute. Lit. Refi. 342; 3 Keb. 645.

That it extends not to actions for slander of title; for that is not properly slander, but a cause of damage; and the slander intended by the statute is to the person. Cro. Cor. 141.

That if the words are of themselves actionable, without the necessity of alleging special damages, although a loss ensues, yet in this case the statute of Limitations is a good bar, but if the words at the time of the speaking of them are not actionable, but a subsequent loss ensues, which entitles the plaintiff to his action, in such case the statute is no bar. 1 Sid. 95: Raym. 61: and see 3 Mod. 111.

That if an action for words be founded upon an indictment, or other matter of record, it is not within the statute. 1 Sid. 95.

By the same stat. 21 Jac. 1. c. 16, it is enacted, that all actions of trespass, of assault, battery, wounding, imprisonment, or any of them, shall be commenced and sued within four years next after the cause of such actions or suits, and not after.

It seems, that if a man brings trespass for beating his servant, per quod servitium amisit, this is not such an action as is within this branch of the statute, being founded on the special damage. 1 Salk. 206: 5 Mod. 74.

If to an action of assault, battery, and imprisonment, the defendant pleads, as to the assault and imprisonment, the statute of Limitations, without answering particularly to the battery, otherwise than by using the words transgressio pridicia, it is sufficient; for these words are an answer to the whole. 1 Lev. 31.

By the same stat. 21 Jac. 1. c. 16, it is enacted, that all actions of trespass quare clausum fregit, all actions of trespass, detinue, action sur trover, and replevin for taking away of goods and chattels, all actions of account, other than such accounts as concern the trade of merchandize between merchant and merchant, their factors or servants, all actions of debt grounded upon any lending or contract without specialty, and all actions on the case, (other than for slander,) all actions of debt grounded upon any lending or contract, without specialty, and all actions of debt for arrearages of rent, shall be commenced and sued within six years next after the cause of action.

Provision is made for femes-coverts, persons that are non compos, imprisoned, or beyond sea.

By § 4 of the said stat. 21 Jac. 1. c. 16, where Judgment is given,
for a Plaintiff, and reversed by Writ of Error; or if Judgment for a plaintiff be arrested, or if a defendant in an action by original be outlawed, and the outlawry reversed, the plaintiff may commence a new action within 12 months after such reversal or arrest of judgment respectively, though it be beyond the time of limitation directed by the statute.

Under the head of Actions upon the Case are included actions for libels, criminal conversation, seduction, and actions for such words as are not actionable without a special damage; and all other actions on the case, being of equal mischief, and plainly within the intention of the legislature. See Cro. Car. 245, 333: 2 Saund. 120: 2 Mod. 71: 1 Sid. 455: 3 Comm. c. 8. p. 307, in n. As to actions in the Admiralty for Seamen's wages, see post. III.

Where the plaintiff complained of a plea of trespass, for that the defendant with force and arms, assaulted and seduced the plaintiff's wife, whereby he lost the comfort of her society, &c. against the peace, &c. to his damage, &c.; whether this be Trespass or Case, (and former authorities have considered it to be Case,) at any rate a plea of 'Not guilty within six years' is good on a general demurrer, 6 East's Rep. 387.

It hath been adjudged, that an action of debt on stat. 2 & 3 Ed. 6. c. 13, for not setting out tithes, is not within the statute; the action being grounded on an act of Parliament, which is the highest record. Cro. Car. 513: Talory v. Jackson: 1 Saund. 38: 2 Saund. 66: 1 Sid. 305, 415: 1 Keb. 95: 2 Keb. 462.

So an action of debt for rent reserved on a lease by indenture is out of the statute, the lease by indenture being equal to a specialty. Hutt. 109: 1 Saund. 38.

Also an action of debt for an escape is not within the statute; not only because it is founded in maleficium, and arises on a contract in law, which is different from those actions of debt on a lending or contract mentioned in the statute, but also because it is grounded on stat. 1 Rich. 2. cap. 12, which first gave an action of debt for an escape, there being no remedy for creditors before, but by action on the case. 1 Saund. 37; Jones v. Pope; 1 Lev. 191: 2 Keb. 903: 1 Sid. 305.

So this statute cannot be pleaded to an action of debt brought against a sheriff for money by him levied on a fieri facias; because the action is founded in maleficium, as also upon the judgment on which the fieri facias issued, which is a matter of record. 1 Mod. 212, 245: 2 Show. 79.

An action of debt on an award under the hand and seal of the arbitrators, though the submission was by parol, is not within the statute. 2 Saund. 64: Sid. 415: 1 Lev. 273: 2 Keb. 462, 496, 533.

An action of debt for a fine of a copyholder is not within the statute. 1 Keb. 536: 1 Lev. 273.

If a man recovers a judgment or sentence in France for money due to him, the debt must be considered here only as a debt by simple contract, and the statute of Limitations will run upon it. 2 Vern. 540: Sed qu. See Doug. 1.

If the plaintiff be in England at the time the cause of action accrues, the time of Limitation begins to run, so that if he, or (if he dies abroad) his representative does not sue within six years, he is barred by the statute. 1 Wils. par. 1. 134. See stat. 4 & 5 Ann. c. 16. post. III.
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It seems that to an assumpsit brought by the assignees of a bankrupt, for a debt due to the bankrupt, this statute is a good bar; for though the assignment is by force of an act of Parliament, yet the assignees stand only in the place of the bankrupt, and can have no other right nor remedy than he had. 2 Lev. 166; 3 Keb. 645; Comb. 70.

It seems clearly agreed, that though the statutes of Limitation bind the courts of equity, that yet a trust is not within these statutes. March 129. 2 Salk. 124.

A charity is not barred by length of time, nor within the statute of Limitations. 2 Vern. 399.

So it hath been held, that a legacy is not within the statute of Limitations. 1 Vern. 256.

It seems to be the doctrine of Courts of Equity, that mortgages are not within the statute of Limitations; yet where a man comes in at an old hand, it hath been sometimes decreed, that the possessor should account no further than for the profits made in his own time, to discourage the stirring in such dormant titles; also the courts have allowed length of time to be pleaded in bar, where the mortgaged estate hath descended as a fee without entry or claim from the mortgagee, and where the possessor would be intangled in a long account; and in these cases the statute of Limitations has been mentioned as a proper direction to go by. 1 Chan. Ca. 102. See title Mortgage.

III. This statute cannot be a bar unless the six years are expired, after there hath been complete cause of action; as if a man promise to pay 10l. to J. S. when he came from Rome, or when he marries, and ten years after J. S. marries, or comes from Rome, the right of action accrues from the happening of the contingency; from which time the statute shall be a bar, and not from the time of promise. Godb. 437.

So in an action on the case wherein the plaintiff declared, that in consideration that he would forbear to sue the defendant for some sheep killed by the defendant’s dog, the defendant promised to make him satisfaction upon request, and that at such a time he requested, &c. it was held, that the right of action accrued from the request, not from the time of killing the sheep; that therefore the defendant could not plead the statute of Limitations, the request being within six years, though the killing the sheep and promise of satisfaction was long before. Godb. 437: See 1 Lev. 48: 1 Sid. 66: 1 Keb. 177.

So if a note or bill of exchange is given, payable at a certain time after date, the cause of action does not accrue until after the expiration of the time specified; and if an action is brought within six years after that time, the statute is not a bar. But if the suit is not commenced within six years after that time, the defendant may plead that the cause of action did not accrue within six years, but he must not plead that he did not promise within six years, i. e. if he is the person first liable to the payment, because the promise is made at the time of making the notes, &c. It may be otherwise in the case of an indorser, who is not liable until default made by the drawer of the note, or acceptor of the bill; but in this case, Non accretit infra sex annos, is a safe and good plea. For similar cases, see 2 Salk. 422: 1 Vent. 191: 3 Keb. 613: Cro. Car. 245-6, 333: 1 Jon. 252: 3 Mod. 110, &c.: Allen 62: 2 Salk. 420: Comb. 26: 1 H. Blackst. 631.

Where a party has been guilty of any fraud in his dealings or ac-
counts, the Courts of Law and Equity have determined, that no shall only protect himself by the statute of Limitations from the time his fraud is discovered. 3 P. Wms. 143: Doug. 630.

It is clearly agreed, that the statute of Limitations is a good plea in a Court of Equity. March 129: 1 Saik. 424.

But it has been agreed, that the statute of Limitations is no plea in the Court of Admiralty, or Spiritual Court, where they proceed according to their Admiralty, and in a matter in which they have cognizance. 6 Mod. 23, 26: 2 Saik. 424: 3 Keb. 366, 392.

Therefore, for a suit upon a contract super altum mare, no prohibition should go upon their refusal of a plea of the statute of Limitations. 6 Mod. 26.

So it has been held not to be pleadable to a proceeding in the Spiritual Court, pro violenta manuum injectione in clericum, because the proceeding is pro reformatione morum, not for damages. 2 Saik. 424.

It was formerly doubted, whether to a suit in the Admiralty for mariner's wages, this statute is a good plea; because it is said, that this is a matter properly determinable at Common Law; and the allowing the Admiralty jurisdiction therein, only a matter of indulgence. 2 Saik. 424: 6 Mod. 25.

But this is now settled by stat. 4 & 5 Ann. cap. 16, by which it is enacted, That all suits and actions in the Court of Admiralty for Seamen's wages, shall be commenced and sued within six years next after the cause of such suits or actions shall accrue, and not after.

IV. 1. The statute 21 Jac. 1. c. 16, being general, infants had been included, had they not been particularly excepted. 1 Lev. 31.

It hath been holden, that if an infant, during his infancy, by his guardian, bring an action, the defendant cannot plead the statute of Limitations; although the cause of action accrued six years before, and the words of the statute are, that after his coming of age, &c. 2 Sound. 121.

It hath been held in Chancery, that if one receives the profits of an infant's estate, and six years after his coming of age, he brings a bill for an account, the statute of Limitations is as much a bar to such a suit, as if he had brought an action of account at Common Law; for this receipt of the profits of an infant's estate is not such a trust as, being a creature of the Court of Equity, the statute shall be no bar to; for he might have his action of account against him at law, and therefore no necessity to come into this court for the account; for the reason why the bills for an account are brought here, is from the nature of the demand, and that they may have a discovery of books, papers, and the party's oath, for the more easy taking of the account, which cannot be so well done at law; but if the infant lies by for six years after he comes of age, as he is barred of his action of account at law, so shall he be of his remedy in this court. 1 Abr. Eq. 304, c. 10: Prec. Ch. 518.

2. It hath been a matter of much controversy, whether the exception relative to a merchant's accounts extends to all actions and accounts relating to merchants and merchandize, or to actions of account open and current only; the words of the statute being, "All actions of trespass, &c. all actions of account and upon the case, other than such actions as concern the trade of merchants;" so that by the words, other than such actions, not being said actions of account, it
has been insisted that all actions concerning merchants are excepted. But it is now settled, that accounts open and current only are within the statute; that therefore if an account be stated and settled between merchant and merchant, and a sum certain agreed to be due to one of them, if in such case he to whom the money is due, does not bring his action within the limited time, he is barred by the statute. See 1 Jon. 401; 2 Saund. 124, 125; 1 Lev. 287, 298; 2 Keb. 622; 1 Vent. 90; 1 Mod. 270; 2 Mod. 312; 2 Vern. 456.

So it hath been adjudged, that by the exception in the statute concerning merchant’s accounts, no other actions are excepted but actions of accounts. Carth. 226.

Also it hath been adjudged, that bills of exchange for value received, are not such matters of account as are intended by the exception in the statute of Limitations. Carth. 226.

An open current account, between tradesmen or others, is not within the statute, supposing the last article of the debt in the account was contracted within the last six years; otherwise, in such case, the statute is a bar. J. M.

This exception does not extend to a tradesman’s account with his customer; for in this case there are not mutual dealings: and the tradesman is barred by the statute from recovering for more than those articles which have been sold within six years. Bull. N. P. 149.

3. The clause of the statute as to persons beyond sea, extends only to such as are actually so. For where to non assumptis infra sex annos, the plaintiff replied, that when the cause of action accrued, he was resident in foreign parts out of the kingdom of England, viz. Glasgow in Scotland; this was held in demurrer; Scotland not being a foreign part within the meaning of the statute, the express words of which are, beyond the seas. Therefore a foreigner, or person resident abroad, shall never be barred from bringing his action; from any length of time while out of the kingdom, for the statute does not begin to run until he has come into it: though any of the persons who are under the disabilities mentioned in the statute, may nevertheless, during the time such disabilities exist, bring their actions. Eschinasse, N. P. 149, 150.

It seems to have been agreed, that the exception extends only where the creditors or plaintiffs are so absent, and not to debtors or defendants, because the first only are mentioned in the statute; and this construction has the rather prevailed, because it was reputed the creditor’s folly, that he did not file an original, and outlaw the debtor, which would have prevented the bar of the statute. Cro. Car. 245, 333: 1 Jon. 252: 1 Lev. 143: 3 Mod. 311: 2 Latw. 950: 1 Salt. 420.

But as the creditor’s being beyond sea is saved by stat. 21 Jac. 1, cap. 16, so now by stat. 4 & 5 Ann. cap. 16, it is enacted, That if any person or persons, against whom there is or shall be any cause of suit or action for seamen’s wages, or against whom there shall be any cause of action of trespass, detinue, action sur travers or replevin, for taking away goods or chattels, or of action of account, or upon the case, or of debt grounded upon any lending or contract without speciality, of debt for arrearages of rent, or assault, menace, battery, wounding and imprisonment, or any of them, be, or shall be, at the time of any such cause of suit or action given or accrued, fallen or come, beyond the seas; that then such person or persons, who is or
shall be entitled to any such suit or action, shall be at liberty to bring
the said actions against such person or persons after their return
from beyond the seas, within such times as are limited for the bringing
of the said actions by stat. 21 Jac. 1. c. 16.

If one only of a number of partners lives abroad, if the others be
in England, the action must be brought within six years after the
cause of action arises. 4 Term Rep. 516.

4. A. received money belonging to a person who before died intest-
tate, and to whom B. after such receipt took out administration, and
brought an action against A. to which he pleaded the statute of Li-
mitations; the plaintiff replied, and shewed that administration was
committed to him such a year, which was infra sex annos; though
six years were expired since the receipt of the money, yet not being
so since the administration committed, the action not barred by the
statute. 1 Salk. 421: Skin. 555: 4 Mod. 376: Latch. 335.

It is said in general, that where one brings an action before the
expiration of six years, and dies before judgment, the six years be-
ing then expired, this shall not prevent his executor. 2 Salk. 424-5.

But if an executor sues upon a promissory note to the testator,
and dies before judgment, and six years from the original cause of
action are actually expired, and the executor brings a new action in
four years after the first executor's death, the statute of Limitations
shall be a bar to such action; for though the debt does not become
irrecoverable by an abatement of the action after the six years elaps-
ed by the plaintiff's death; yet the executor should make a recent
prosecution, to which the clause in the statute, § 4, that provides a
year after the reversal of a judgment, &c. may be a good direction,
or shew that he came as early as he could, because there was a con-
test about the will, or right of administration; for the statute was
made for the benefit of the defendants, to free them from actions
when their witnesses were dead, or their vouchers lost. 2 Stra. 907:
Fitzgib. 81.

Under the equity of the above-mentioned section, in all cases of
executors, if the six years be not elapsed at the time of the testator's
death, and the executor takes out proper process within the year, it
will save the bar by reason of the Limitation, even though the six
years, within which the demand accrued, be elapsed before process
sued out. Bull. N. P. 150, Cowper v. James, Trin. 15 Geo. 2. C. B.

If there be no executor against whom the plaintiff may bring his
action, he shall not be prejudiced by the statute of Limitations, nor
shall any laches in such cases be imputed to him. 2 Vern. 695.

5. It seems agreed, that there being no Courts, or the Courts of
Justice being shut, is no plea to avoid the bar of the statute of Limita-
tions; as where after the Civil War an assumptio was brought, and
the defendant pleaded the statute of Limitations; to which the plain-
tiff replied, that a civil war had broke out, and that the government
was usurped by rebels, which hindered the course of justice, and
by which the courts were shut up, and that within six years after
the war ended he commenced his action; this replication was
held, for the statute being general, must work upon all cases which
are not exempted by the exception. 1 Keb. 157: 1 Lev. 31: Carth.
157: 2 Salk. 420.

It is clearly agreed, that the defendant's being a Member of Par-
liament, and entitled to privilege, will not save a bar of the statute;
because the plaintiff might have filed an original without being guilty of any breach of privilege. 1 Lev. 31, 111: Carth. 136, 7.

It is said, that if a man sues in Chancery, and pending the suit there, the statute of Limitations attaches on his demand, and his bill is afterwards dismissed, the matter being properly determinable at Common Law; in such case the Court will preserve the plaintiff's right, and will not suffer the statute to be pleaded in bar to his demand. 1 Vern. 75, 74.

If the statute of Limitations be pleaded to an action, the plaintiff to save his action may reply, that he had commenced the suit in an inferior Court within the time of Limitation, and that it was removed to Westminster by habeas corpus; and this shall be allowed by a favourable construction of the statute of Limitations; although in strictness the suit is commenced in the Court above, when it is removed by habeas corpus. 1 Sid. 228; 3 Keb. 263; 1 Lev. 143: also vide 2 Salk. 424: 2 Stra. 719: Bull. N. P. 151. See post. 6.

6. It is clearly agreed, that the suing out an original will save a bar of the statute of Limitations, and that thereupon the defendant may be outlawed; and that if beyond the sea at the time of the outlawry, though it shall be reversed after his return, yet the plaintiff may bring another original by journies accounts, and thereby take advantage of his first writ. Carth. 136: 1 Salk. 420: 3 Mod. 311.

Also it is agreed, that the suing out a latitat is a sufficient commencement of a suit, to save the Limitation of time, because the latitat is the original in B. R. and may be continued on record as an original writ. 1 Sid. 53, 60: Carth. 233: 1 Salk. 421: see ante II. 2.

Also it hath been ruled, that to a plea of the statute of Limitation the plaintiff may reply, that he sued out a latitat, and continued it down by a vicemones non misit breve, without concluding prout patet per recordum; for the latitat roll is only for the private use of the Court, and no record. 2 Keb. 46. The same is law, as to a bill of Middlesex. See Sty. 156, 178: 2 Ld. Raym. 880: 1 Stra. 350: 2 Stra. 736: 2 Ld. Raym. 1441; and 2 Burr. 961.

But if the suing out of a latitat be replied to a plea of the statute of Limitations, the defendant, in order to maintain that plea, may aver the real time of suing it out in opposition to the teste. 2 Burr. 950.—And though the suing out an original, or latitat, will be a sufficient commencement of a suit, yet the plaintiff, in order to make it effectual, must shew that he hath continued the writ to the time of the action brought. Carth. 144: 2 Salk. 420: 1 Latw. 101, 254: 3 Mod. 33. That the attorney's writing the continuances on the writ in his chambers is sufficient, see 1 Sid. 53: 1 Keb. 140. Also vide Carth. 144: 2 Salk. 420: 1 Salk. 421. The continuances may be entered up, at any time, before the plaintiff replies. The process sued and filed, and the continuances thereon, must be set forth by the plaintiff in his replication. See 3 Term Rep. 662: 1 Wils. 167: Esp. N. P. 153.

It is sufficient to prove a writ sued out within time, and a declaration within a year afterwards, without shewing such writ returned. 7 Term Rep. K. B. 6: unless where the first writ is continued by subsequent writs sued out after the time of Limitation. 6 Term Rep. K. B. 617, and see 2 Bos. & Pul. 157.

7. It is clearly agreed, that if after the six years the debtor acknowledges the debt, and promises payment thereof, that this revives it, and
brings it out of the statute; as if a debtor by promissory note, or simple contract, promises within six years of the action brought that he will pay the debt; though this was barred by the statute, yet it is revived by the promise; for as the note itself was at first but an evidence of the debt, so that being barred, the acknowledgment and promise is a new evidence of the debt; and being proved, will maintain an assumpsit for recovery of it. 1 Salk. 28, 29; Carth. 470; 5 Mod. 425, 426: 2 Show. 126: 2 Vent. 151.

Also it hath been adjudged, that a conditional promise will revive a debt barred by the statute of Limitations; as where to an assumpsit by an executor for goods sold and delivered by the testator, the defendant pleaded the statute, and upon evidence it appeared, that the defendant within six years, being applied to by the executor for the debt, said, "If you prove that I have the goods, I will pay you;" which being fully proved at the trial, it was held that this conditional promise revived the debt; and that though made to the executor, after the death of the testator, it was sufficient to maintain the issue; because the promise did not give any new cause of action, but only revived the old cause, and was of no other, but to prevent the bar by the statute of Limitations. Carth. 470: 1 Salk. 29: 5 Mod. 425.

So it hath been held that a bare acknowledgment of the debt within six years of the action, is sufficient to revive it, and prevent the statute, though no promise was made. Carth. 470.

If an indebitatus assumpsit for goods sold, be brought against four persons, who plead the statute of Limitations, and it be found that one of them promised within six years, there can be no judgment against him; for the contract being entire, it must be found that they all promised. 2 Vent. 151.—But where there are two or more drawers of a joint and several promissory note, the acknowledgment of one may be given in evidence in a separate action against another, and will defeat the effect of the statute. Doug. 629.

It seems to be the doctrine of the Courts of Equity, that if a man by will or deed subject his lands to the payment of his debts, debts barred by the statute of Limitations shall be paid, for they are debts in equity; and the duty remains; and the statute hath not extinguished that, though it hath taken away the remedy. 1 Salk. 154: 2 Vern. 111.

Also it hath been ruled in equity, that if a man has a debt due to him by note, or a book debt, and has made no demand of it for six years, so that he is barred by the statute of Limitations; yet if the debtor, or his executor, after the six years, puts out an advertisement in the Gazette, or any other news-paper, that all persons who have any debts owing to them, may apply to such a place, and that they shall be paid; this (though general, and therefore might be intended of legal subsisting debts only) yet amounts to such an acknowledgment of that debt which was barred, as will revive the right, and bring it out of the statute again. Abr. Eq. 305.

Any acknowledgment of the existence of the debt, however slight, will take it out of the statute, and the Limitation will then run from that time; and where an expression is ambiguous, it shall be left to the consideration of the Jury, whether it amounts or not to such acknowledgment. 2 Term Rep. 760. And see Bicknell v. Keppel, 1 New Ref. C. B. 20.
An acknowledgment of the debt, even though accompanied with a declaration by the defendant, that he did not consider himself as owing the plaintiff a farthing; it being more than six years since he contracted, is sufficient to take the case out of the statute. 4 East's Ref. 599: and 604. in n.  

One of two makers of a joint and several promissory note having become a bankrupt, the payee receives a dividend under his commission, on account of the note; this will prevent the other maker from availing himself of the statute of Limitations, in an action brought against him for the remainder of the money due on the note; the dividend having been received within six years before the action brought. 2 H. Black, Ref. 340.  

If there be a mutual account of any sort between a plaintiff and defendant, for any item of which credit has been given within six years, that is evidence of an acknowledgment of there being such an open account between the parties, and of a promise to pay the balance so as to take the case out of the statute. 6 Term Refs. 189.  

8. Where the cause of action is to arise from an executory consideration, as some act to be performed, and a promise to pay in consequence of it, there non assum pits infra sex annos is not the proper plea; for the assumptis does not arise till the consideration is performed, it should be actio non accretit infra sex annos. Espinasse N. P. 156. See 2 Salk. 422; N. P. 151.  

It seems to be admitted, that the statute of Limitations must be pleaded positively by him that would take advantage thereof; and that the same cannot be given in evidence, especially in an assum ptis, because the statute speaks of a time past, and relates to the time of making the promise. 1 Lev. 111: 1 Sid. 253: and see Cro. Jac. 115. See ante II. 2.  

But in debt for rent, upon nil debet pleaded, the statute of Limitations may be given in evidence; for the statute has made it no debt at the time of the plea pleaded, the words being in the present tense. 1 Salk. 278.  

In replevin the defendant pleaded Not guilty, De ephet pradiet infra sex annos jam ultimo elapsos; and though it was urged, that this was the same with pleading non ephet, and if he did not take, he could not be guilty of the detainer; and if this way of pleading were not allowed, the statute would be entirely evaded as to this action; yet the plea was held ill, because he ought to have answered to the detainer, as well as to the taking; also a thing may be lawfully dis tained, although unlawfully kept; as by being put into a castle, &c. by which means it could not be repleived. 1 Sid. 81: Keb. 279; and see Raym. 86; 1 Lev. 110: 1 Keb. 566.  

If a debt be set off by way of plea, the statute of Limitations may be replied to it. 2 Str. 1271.  

Evidence of an acknowledgment by the defendant, within six years of an old existing debt, of above six years' standing, due to the plaintiff's intestate, but which acknowledgment was made after the intestate's death, will not support a count by the administrator, laying the promise to be made to his intestate, to which the statute of Limitations was pleaded. 3 East's Ref. 409.  

To an action brought by the assignees of an Insolvent Debtor, to recover money owing to him before his insolvency, in which the plaintiffs declare, that in consideration of the money being due to the in-
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solvent, the defendant promised to pay them as assignees, it is a bad plea to say that the cause of action first accrued to the insolvent, before the plaintiffs became assignees, and that six years had elapsed before the cause of action accrued to the insolvent, and before the suit out of the writ. 2 H. Blackst. 561.

Assumpsit on a note payable by instalments, plea in bar; as to the said several causes of action, except the last instalment; 'that the said several causes of action did not, nor did any of them accrue within six years;' held on special demurrer, that though some of the instalments might be barred, and the others not, yet, that the introduction to the plea, and the body of it were inconsistent. 2 Bos. & Pul. 427.

LIMITATION OF THE CROWN. See this Dictionary, title King I.

LIMITATION OF ESTATE; A modification or settlement of an Estate, determining how long it shall continue; or is rather a qualification of a precedent Estate. A Limitation by Littleton, a condition in law. Lit. § 380: 1 Inst. 254.—It is generally made by such words as *durante vita quanquam dum*, &c. And if there be not a performance according to the Limitation, it shall determine an Estate without entry or claim, which a condition doth not. 10 Rich. 41: 1 Inst. 204. See this Dictionary, title Condition I. 2.

Limitation is also taken for the compass and time of an Estate; or where one doth give lands to a man, to hold to him and to his heirs male, and to him and the heirs female, &c. here the daughters shall not have any thing in it so long as there is a male, for the Estate to the heirs-male is first limited. Co. Lit. 3, 13.

If a Limitation of an Estate be uncertain, the Limitation is void; and the Estate shall remain as if there had been no such Limitation. Cro. Eliz. 216. But a thing that is limited in a will by plain words, shall not be afterwards made uncertain by general words which follow. Hil. 23 Car. B. R. Where a devise is to the eldest son, upon condition that he pays such legacies; and if he refuses, the land to remain to such legacies; on his refusal, the legateses may enter by way of Limitation. Noy 51. And in all cases, where, after a condition, an interest is granted to a stranger, it is a Limitation. 1 Leon. 269: Cro. Eliz. 204. See title Condition I. 2.

As to the origin and progress of the Limitation of Estates, See 1 Inst. 271. b. in n; and this Dictionary, under title Conveyance:—See also titles Estate; Deed; Feoffment; Gift; Grant; Lease and Release; Remainder; Trusts; Uses; Powers, &c. From the note above cited has been extracted the following summary with respect to the Limitations and modifications of landed property, unknown to the Common Law, which have been introduced under the Statute of Uses, stat. 27 H. 8. c. 10.

The principal of these are known by the general appellation of springing or secondary uses. No Estate could be limited upon or after a fee, though it were a base or qualified fee; nor could a fee or estate of freehold be made to cease as to one person and to vest in another, by any Common-law conveyance. But there are instances where even by the Common Law these secondary Estates seem to have been allowed, when limited, or rather when declared by way of use. See Jenk. Cent. 8. ca. 52. After the Statute of Uses the Judges seem to have long hesitated whether they should receive them. In Chud-
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Leigh's Case, (1 Rep. 120; Jenk. 276; Poph. 70; 1 And. 309,) it was strongly contended that it would be wrong to make any Estate of freehold an inheritance, lawfully vested, to cease as to one, and to vest in others against the rule of law; and that no Estates should be raised by way of use, but those which could be raised by livery of seisin at the Common Law. The Courts however admitted them. After they were admitted it was found necessary to circumscribe them within certain bounds: because when an Estate in fee-simple is first limited, there is no method by which the first taker can bar or destroy the secondary Estate; as it is not affected either by a Fine or Common Recovery.

It is now settled, that when an Estate in fee-simple is limited, a subsequent Estate may be limited upon it, if the event upon which it is to take place be such, that if it does happen, it must necessarily happen within the compass of one or more life or lives in being, and 21 years and some months over; [i.e. as many months as it is possible a child may be legitimately born after the death of its father:] it was long before the Courts agreed on this period; which was not arbitrarily prescribed by our Courts of Justice with respect to these secondary fees, but wisely and reasonably adopted in analogy to the cases of freehold and inheritance, which cannot be limited by way of remainder, so as to postpone a complete bar of the entail, by Fine or Recovery for a longer space. 1 Inst. 20, in n.

But the reason which induced the Courts to adopt this analogy, with respect to these Estates when limited upon an Estate in fee-simple, does not hold when they are limited upon or after an Estate in tail; because in this latter case, the tenant in tail, by suffering a Common Recovery before the event takes place, bars or defeats the secondary Estate, and acquires the fee-simple absolutely discharged from it. See Page v. Haywood, 2 Salk. 570, and 1 Lev. 35: Goodman v. Cook, 2 Sid. 102. Hence, if these secondary Estates are limited upon or after an Estate in tail, they may be limited generally, without restraining or confining the event or contingency upon which they are to take place to any period. See Treat. Eq. ii. 95.

Thus, if an Estate be limited to A. and his heirs; and if B. (a person in use) dies without leaving any issue of his body living at the time of his decease; or having such issue if all of them die before any of them attain the age of 21 years, then to C. and his heirs: here the Limitation to C. is limited after a previous Limitation in fee-simple, and it is a good Limitation; because the event upon which it is to take place, must, if it does happen at all, necessarily happen within the period of a life in being, and 21 years and a few months. But if the Estate were limited to A. and his heirs; and, after the decease of B., and a total failure of heirs, or heirs-male of the body of B., to C. and his heirs; here as the secondary use is limited after a previous Limitation in fee-simple, and the event on which the fee limited to C. is to take place, is not such as must necessarily happen within the period prescribed by law, (for B. may have issue, and that issue may not fail for many years after the expiration of 21 years after B.'s decease,) the Limitation to C. and his heirs is void. But suppose the Estates were limited to A. for life, then to trustees and their heirs, during his life, for preserving contingent remainders, then to A.'s first and third sons successively in tail-male, with several remainders over; with a proviso if B. dies, and there should be a to-
tal failure of heirs or heirs-male of his body, the uses limited to A. and his sons, and the remainders over, shall determine; and the lands remain and go over to C. and his heirs; here the Limitation to C. and his heirs is limited upon or after previous Limitations for life or in tail; and the event upon which it is to take effect, may possibly not happen till after a period of one or more life or lives in being and 21 years: but so far as it is limited on an event which may happen during the continuance either of one or more life or lives in being, it is within the bounds mentioned; and so far as it is limited on an event which may happen during the continuance of the Estate of the tenants in tail, or after them, the first tenant in tail in possession, by suffering a recovery before the event happens, may bar the Limitations over, and thereby acquire an Estate in fee-simple: and therefore the Limitation to C. and his heirs is good.

LIMOGIA, Enamel; opus de limogia, or opus limoeicum, is enamelled work. Monast. 5 tom. 331.

LINARIUM, A flax plat, where flax is sown. Pat. 22 Hen. 4. par. 1 m. 33.

LINCOLN, In attain of a verdict of the city of Lincoln, the jury shall be impanelled of the county of Lincoln. See stats. 13 Rich. 2. stat. 1. c. 18: 3 Hen. 5. st. 2. c. 5.

LINCOLN'S INN FIELDS, To be inclosed by trustees, who may employ artificers, &c. And yearly rates shall be made on all houses there, not exceeding 2s. 6d. in the pound: this square and back streets are to be a distinct ward, as to the scavengers' rates and watch; and the persons annoying the fields by filth, to forfeit 20s.; and assembling to use sports, or breaking fences, &c. incur a forfeiture of 40s. levied by a Justice of Peace's warrant. Stat. 8 Geo. 2. c. 26.

LINDESFERN, A place often mentioned in our antient histories; being formerly a Bishop's See, now Holy Island.

LINEAL CONSANGUINITY, Is that which subsists between persons, of whom one is descended in a direct line from the other.—See titles Descent; Kindred.

LINEAL DESCENT, The descent of estates, from ancestor to heir, i. e. from one to another, in a right line. See title Descent.

LINEAL DESCENT OF THE CROWN, See title King I.

LINEAL WARRANTY, Is where the heir derives, or may by possibility derive his title to land warranted, either from or through the ancestor who makes the warranty. See title Warranty.

LINEN, No person shall put to sale any piece of doulas Linen, &c. unless the just length be expressed thereon, on pain to forfeit the same. Stat. 28 H. 8. c. 4. Using means whereby Linen cloth shall be made deceitfully, incurs a forfeiture of the Linen and a month's imprisonment. Stat. 1 Eliz. c. 12. And Linen of all sorts made of flax or hemp, of the manufacture of this kingdom, may be exported duty free. Stat. 3 Geo. 1. c. 7.—See stat. 29 Geo. 2. c. 15; 44 Geo. 3. c. 57. and this Dictionary, title Navigation Acts. Stealing of Linen, &c. from whitening grounds or drying houses, to the value of 10s. is felony. Stat. 4 Geo. 2. c. 16. See titles Larceny; Felony. By the Stat. 17 Geo. 2. c. 30; Affixing on foreign Linens any stamp put upon Scotch or Irish Linens, or affixing a counterfeit stamp on British or Irish Linens, incurs a penalty of £1.—By stat. 18 Geo. 2. c. 24, the stamp-master is to be sworn to the true execution of his office; and Linens to be stampt, must be sworn to be the manufacture of
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Scotland or Ireland, and a penalty of 51. each piece is laid on false stamps. For encouraging the Linen manufactory in Scotland; see stat. 24 Geo. 2. c. 31: 26 Geo. 2. c. 20.—In Ireland, see 42 Geo. 3. c. 75: 44 Geo. 3. c. 42, 69.

Printed Linens, Cottons, Muslins, &c. By stat. 27 Geo. 3. c. 38, proprietors of new patterns shall have the sole right of printing them for two months. See this Dictionary, title Literary Property.

LINSEED, All persons may import Linseed into this kingdom, without paying any custom for it. Stat. 3 Geo. 1. c. 7. § 38. See title Customs; Navigation Acts.

LIQUORICE, Is among the drugs liable to certain duties on importation, under the laws relative to the Customs.

LITERA, From the Fr. lîtûre or lîtière, Lat. lectum.] Litter: it was antiently used for straw for a bed, even the King’s bed. It is now only in use in stables among horses: tres carectatas lîtûre, three cart-loads of straw or litter. Mon. Angl. tom. 2. pt. 33.

LITERATURA, Ad literaturam ponere, Signifies to put children out to school; which liberty was antiently denied to those parents who were servile tenants, without the consent of the lord: and this prohibition of educating sons to learning, was owing to this reason; for fear the son being bred to letters might enter into orders, and so stop or divert the services which he might otherwise do as heir to his father. Paroch. Antig. 401.

LITERÆ, Ad faciendum attornatum pro sectâ faciendâ; Reg. Orig. 192. See Attorney.

LITERÆ, Canonici ad exercendum jurisdictiorem loco suo. Reg. Orig. 305.

LITERÆ, Per quas dominus remitit curiam suam Regi, Reg. Orig. 4.

LITERÆ De requestu, Reg. Orig. 129. See these in their proper places.

LITERÆ SOLUTORÆ, Were magical characters supposed to be of such power, that it was impossible for any one to bind those persons who carried these about them. Bede, lib. 4. c. 22.

LITERARY PROPERTY,

The Property that the Author, or his assignee, hath in the copy of any work.

The right which an Author may be supposed to have in his own original literary compositions, so that no other person without his leave may publish or make profit of the copies, is classed by Blackstone among the species of property acquired by occupancy; being grounded on labour and invention. He expresses however some doubt whether it subsists by the Common Law: and this being still, after all the determinations on the subject, in some measure, vexata quaesto, the following extracts deserve the attention of the Student. See 2 Comm. 405.

When a man by the exertion of his rational powers, has produced an original work, he seems to have clearly a right to dispose of that identical work as he pleases; and any attempt to vary the disposition he has made of it, appears to be an invasion of that right. Now the identity of a literary composition consists entirely in the sentiment and the language. The same conceptions clothed in the same words, must necessarily be the same composition; and whatever method he
taken of exhibiting that composition, to the ear or to the eye of another, by recital, [See post, the case of Cotman v. Wathen.] by writing, or by printing, in any number of copies, or at any period of time, it is always the identical work of the author which is so exhibited; and no other man, it hath been thought, can have a right to exhibit it, especially for profit, without the author's consent. This consent may perhaps be tacitly given to all mankind when an author suffers his work to be published by another hand, without any claim or reserve of right, and without stamping on it any marks of ownership: it being then a present to the public, like building a church or bridge, or laying out a new highway. But in case the author sells a single book, or totally grants the copy-right, it hath been supposed, in the one case, that the buyer hath no more right to multiply the copies of that book for sale, than he hath to imitate for the like purpose the ticket, which is bought for admission to an opera or a concert; and, in the other, that the whole property with all its exclusive rights, is perpetually transferred to the grantee. On the other hand it is urged, that though the exclusive property of the manuscript, and all which it contains, undoubtedly belongs to the Author before it is printed or published; yet from the instant of publication, the exclusive right of an Author, or his assigns to the sole communication of his ideas, immediately vanishes and evaporates; as being a right of too subtle and unsubstantial a nature, to become the subject of property at the Common Law, and only capable of being guarded by positive statutes and special provisions of the Magistrate. 2 Comm. 406.

The Roman law adjudged, that if one man wrote any thing on the paper or parchment of another, the writing should belong to the owner of the blank materials, meaning thereby the mechanical operation of writing; for which it directed the scribe to receive a satisfaction: for in works of genius and invention, as in painting on another man's canvas, the same law gave the canvas to the painter. As to any other property, in the works of the Understanding, the law is silent; though the sale of literary copies, for the purposes of recital or multiplication, is certainly as antient as the times of Terence, Martial, and Statius. 2 Comm. 407.

But whatever inherent copy-right might have been supposed to subsist by the Common Law, the statute 8 Ann. c. 19, hath now declared, that the Author and his assigns shall have the sole liberty of printing and reprinting his works for the term of fourteen years, and no longer; [the words of the statute]; and hath protected that property by additional penalties and forfeitures: directing farther, that if at the end of that term the Author himself be living the right shall then return to him, for another term of the same duration. A similar privilege is extended to the new inventors of Prints and Engravings, by stats. 8 Geo. 2. c. 13: 7 Geo. 3. c. 38: 17 Geo. 3. c. 57. The above parliamentary protections appear to have been suggested by the exception in the statute of monopolies, 21 Jac. 1. c. 3; which allows a Royal patent of privilege to be granted for fourteen years to any inventor of a new manufacture, for the sole working or making of the same; by virtue whereof it is held, that a temporary property therein becomes vested in the King's patentee. [See this Dictionary, title Patents.] 1 Vern. 65: 2 Comm. 407.

Whether the productions of the mind could communicate a right of property, or of exclusive enjoyment, in reason and nature; and if
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such a moral right existed, whether it was recognised and supported by the Common Law of England; and whether the Common Law was intended to be restrained by the statute of Queen Anne, are questions upon which the learning and talents of the highest legal characters in this kingdom have been powerfully and zealously exerted. These questions have, by the supreme Court of Judicature in the kingdom, been so determined, that an Author has no right at present beyond the limits fixed by that statute. See the case of Donaldson v. Beckett, Bro. P. C.

As that determination, however, was contrary to the opinion of Lord Mansfield, of the learned Commentator, and of several other Judges, Mr. Christian has remarked, that every person may still be permitted to indulge his own opinion upon the propriety of it, without incurring the imputation of arrogance; and he proceeds to deliver his sentiments in the following manner. (See post.)

Nothing is more erroneous than the common practice of referring the origin of moral rights, and the system of natural equity to that savage state, which is supposed to have preceded civilized establishments; in which literary composition, and of consequence the right to it, could have no existence. But the true mode of ascertaining a moral right, seems to be to inquire whether it is such as the reason, the cultivated reason of mankind, must necessarily assent to. No proposition seems more conformable to that criterion, than that every one should enjoy the reward of his labour, the harvest where he has sown, or the fruit of the tree which he has planted. And if any private right ought to be preserved more sacred and inviolate than another, it is that where the most extensive benefit flows to mankind from the labour by which it is acquired. Literary Property, it must be admitted, is very different in its nature from a property in substantial and corporeal objects; and this difference has led some to deny its existence as property; but whether it is sui generis, or under whatever denomination of rights it may more properly be classed, it seems founded upon the same principle of general utility to Society, which is the basis of all other moral rights and obligations. Thus considered, an author’s copy-right ought to be esteemed an inviolable right, established in sound reason and abstract morality: no less than eight of the twelve Judges were of opinion, that it was a right allowed and perpetuated by the Common Law of England; but six held, either that it did not exist, or that the enjoyment of it was abridged by the statute of Queen Anne; and that all remedy for the violation of it was taken away after the expiration of the term specified in the Act; and agreeable to that opinion was the final judgment of the House of Lords. 1 Comm. 407. in n.

For the arguments at length of the Judges of the King’s Bench, and the opinions of the rest, see the case of Millar v. Taylor, 4 Burr. 2303: 1 Blackst. Ref. 675. In that case the Court of King’s Bench determined that an exclusive and permanent copy-right did actually subsist in Authors by the Common Law. But the effect of their opinion was contradicted by the determination of the House of Lords, in Donaldson v. Beckett, as above stated.

In Ireland, before the Union there was no statute to protect the copy-right of authors. The following is a general abstract of the statutes relative to this interesting subject, and of some points determined on their construction.

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The British statute 8 Ann. c. 19, enacts, That the author of any book and his assigns, shall in future have the sole liberty of printing it for fourteen years, to commence from the day of the first publishing thereof; and if any person within the said time shall print, reprint, or import any such book without the consent of the proprietor in writing, or shall knowingly sell, publish or expose to sale, any such book, without such consent, the offender shall forfeit the books and sheets to the proprietor, and also 1d. for every sheet found in his custody, either printed or printing; half to the Crown, and half to him who will sue in any Court at Westminster. § 1.

No bookseller, printer, or other person, shall be liable to these forfeitures, unless the title to the copy of the book [the whole book and every volume thereof, stat. 15 Geo. 3. c. 53, § 6,] shall before such publication be entered in the register book of the Company of Stationers, at their Hall in London, and unless the consent of the proprietor be entered, paying 6d. for each entry, § 2; nor unless nine copies of each book be delivered to the Company’s warehouse-keeper before publication, for the use of the Royal library, the libraries of the universities of Oxford and Cambridge, of the four universities in Scotland, of Sion College in London, and of the advocates at Edinburgh, § 5, and see stat. 15 Geo. 3. c. 53, § 6, and 41 Geo. 3. c. 107.

But an action may be brought, or an injunction obtained in a Court of Equity, though the publication be not entered in the register of the Stationers’ Company. 1 Black. Ref. 330. In Beckford v. Hood, it was explicitly determined that an author whose work is pirated before the expiration of 28 years, from the first publication of it, may maintain an action on the case for damages against the offending party, although the work was not entered at Stationers’ Hall, and although it was first published without the name of the author affixed, 7 Term Ref. K. B. 620.

If the Clerk of the Stationers’ Company shall neglect to make due entry, or to give a certificate thereof, then, notice being given in the Gazette, the proprietor shall have the same benefit as if an entry were actually made: and the clerk shall forfeit 20l. stat. 8 Ann. c. 19, § 3: 41 Geo. 3. U. K. c. 10794, 5.

The above statute, 8 Ann. c. 19, particularly provided, by § 9, that the right of the Universities, or any other person, to the printing or reprinting of any book already printed, should not be either prejudiced or confirmed: after the determination of the case of Donaldson v. Beckett, the Universities were so much alarmed at the decision, that they applied for and obtained an Act, stat. 15 Geo. 3. c. 53, which secured to the two Universities in England, the Colleges or Houses of learning within the same, the four Universities in Scotland, and the colleges of Eton, Westminster, and Winchester, a perpetuity in the copy-right of all books given, or devised to, or in trust for them by the authors; which was sanctioned by the same penalties as those contained in the stat. 8 Ann. so long as the books or copies belonging to the said Universities or Colleges are printed only at their own printing presses, within the Universities or Colleges, and for their sole benefit. § 8.

Musical Compositions have been held to be within the meaning and protection of the statute. Cawp. 625. A fair and bona-fide Abridgment of any book, is considered as a new work; and however it may injure
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the sale of the original, yet it is not deemed in law to be a piracy, or violation of the author's copy-right. 1 Bro. C. R. 451: 2 Atk. 141.

Where an Author transfers all his right or interest in a publication to another, and happens to survive the first fourteen years, the second term will result to his assignee, and not to himself. 2 Bro. C. R. 80.

Evidence that the defendant acted a piece on the Stage, of which the plaintiff had bought the copy-right, is not evidence of a publication by the defendant, within the meaning of the statute. Colman v. Wathen, 5 Term Ref. 245. But no one has a right to take down a play in short-hand, and to print it before it is published by the Author: Ambl. 694.

Two temporary statutes were made, with a view still further to secure the property in books, and also to encourage printing in this country. The stat. 12 Geo. 2, c. 36. provided, that if any book be originally written or printed and published in this country, and afterwards (within twenty years) reprinted abroad, and imported and exposed to sale here, the importer and seller should forfeit all such books to be cancelled, and for every offence should forfeit also 5l. and double the value of the books to be recovered with costs. The stat. 34 Geo. 3, c. 20. § 57, extended the penalty to 10l. and double the value of the books; and rendered all persons having such books in their possession for sale, liable to the forfeiture; and empowered Custom-house or Excise officers to seize them, who shall be rewarded accordingly.

Under these statutes it seems immaterial whether the author's copy-right is extinct or not, if the book has been reprinted in England within twenty years. 1 Comm. 407, in n. Every distinct sale of one book or a parcel, is a distinct offence, by which a new penalty is incurred, though the sales be on the same day. 3 Term Ref. 509.

By the act 41 Geo. 3, c. 107 (passed after the Union of Great Britain and Ireland) for the further encouragement of learning in the United Kingdoms; It is enacted that authors of books already composed and not published, and of books hereafter to be composed, and their assigns, shall have the sole right of printing such books for 14 years from the day of first publishing the same; (and for 14 years more if the author is living at the end of the first 14 years;) that booksellers, printers, &c. in any part of the United Kingdom, or in any part of the British European dominions, who shall print, reprint, or import, or publish, or expose to sale any such book, without consent of the proprietor, shall be liable to a special action in the case for damages at the suit of the proprietor, and shall also forfeit all the books to the proprietor; and further 3d. per sheet, half to the king, and half to the informer. § 1.

This act shall not extend to books heretofore published, nor indemnify against penalties under former acts. § 2.

The right of printing books given or bequeathed to Trinity College, Dublin, is secured to that college under like penalties. § 3.

Booksellers, &c. shall not be liable to the penalty of 3d. per sheet, unless the title to the copy-right be entered before publication at Stationers' Hall; nor if the consent of the publisher be so entered. § 4.

Clerk of the Stationers' Company shall make due entries, &c. § 4, 5.

Two additional copies of all books entered at Stationers' Hall shall
be delivered there for the use of Trinity College and King's Inns, Dublin. § 6.

No person shall import into any part of the United Kingdoms for sale any book first written or printed and published within the United Kingdom, and reprinted elsewhere; on penalty of forfeiture of the books, 10/, and double the value of each copy so imported—Books may be seized by officers of customs and excise, who shall be rewarded by their respective commissioners.—These penalties do not extend to books not having been printed in the United Kingdom within 20 years; nor to books reprinted abroad, and inserted among other books or tracts for the most part foreign. § 7.

All actions, indictments, &c. for offences against this act must be commenced within six months after commission of the offence. § 8.

It is worthy of remark, that the determination of the House of Lords in Donaldson and Beckett, which was supposed, at the time, to have given a mortal blow to the property and prosperity of Authors and Booksellers, has, in fact, been one great means of increasing both. Few books are now republished without considerable alterations, additions, or annotations, by means of which they become, in fact, new works; and it is not worth any body's while then to pirate them in their original state. And an action lies to recover damages, for pirating the new corrections and additions to an old work. 1 East's Rep. 358. and See Id. 361, 363, in n.

This has proved a spur to the industry of Authors, and the liberality of Booksellers; and perhaps no period ever produced so many publications of acknowledged utility, as that which has elapsed since the memorable decision above alluded to; which for the moment cast a melancholy gloom over those who now enjoy its beneficial effects.

The following are the principal features and distinctions of the three statutes relative to Prints and Engravings. The stat. 3 Geo. 2. c.13, gives an exclusive privilege of publishing, to those who invent or design any print, for fourteen years only. The stat. 7 Geo. 3. c. 28, extends the term to twenty-eight years absolutely, to all who either invent the design, or make a print from another's design or picture; and those who copy such prints within that time, forfeit all their copies to be destroyed; and 5s. for each copy. The stat. 17 Geo. 3. c. 37, gives the proprietor an action on the case to recover damages and double costs for the injury he has sustained by the violation of his right.

The assignee of a print may maintain an action on this last statute against any person who pirates it; and in such an action it is not necessary to produce the plate itself in evidence; one of the prints taken from the original plate is good evidence. 5 Term Rep. 41.

In analogy also to the above doctrines of Literary Property, the stat. 27 Geo. 3. c. 38, gives to the proprietors of new patterns in printed linen, cottons, muslins, &c. the sole right of printing them for two months; and gives the proprietor injured his remedy by an action for damages.

There is also a kind of Prerogative Copy-right subsisting in certain books, which is held to be vested in the crown upon several reasons. Thus, 1. The King, as the executive magistrate, has the right of promulgating to the people all acts of state and government. This gives him the exclusive privilege of printing at his own press, or that of his grantees, all Acts of Parliament, Proclamations, and Orders of Council. 2. As supreme head of the Church, he hath a right to the
publication of all *Liturgies* and books of divine service. 3. He is also said to have a right by purchase to the copies of such law books, grammars, and other compositions, as were compiled or translated at the expence of the Crown. And upon these two last principles, combined, the exclusive right of printing the translation of the Bible is founded. See 2 Comm. c. 27.

LITH OF PICKERING, In the county of York, viz. the liberty, or a member of Pickering, from the Saxon, *lid. 1. e. membrum.*

LITIGIOUS. The litigiousness of a church, is where several persons have, or pretend to, several titles to the patronage, and present several clerks to the Ordinary; it excuses him from refusing to admit any of them, till a trial of the right by *jure patronatus,* or otherwise. *Jenk. Cent. 11.*

LITMUS, To what duties liable. See *stat. 4 W. & M. c. 5. § 2.*

LITTERA, Litter;—*Tres carectas litterae,* three cart loads of straw or litter. *Mon. Angl. 2. par. fol. 33. b.*

LITTLETON; Was a famous lawyer in the days of King Edward the Fourth, as appeareth by *Staundf. Prer. c. 21. fol. 72.* He wrote a book of great account, called *Littleton's Tenures.* See title *Law-books.*

LIVERY, [*from livre,* i. e. *insigne gestamen,* or *livere,* *tradere.*] Hath three significations. In one sense, it was used for a suit of clothes, cloak, gown, hat, &c. which a nobleman or gentleman gave to his servants or followers, with cognizance or without; mentioned in *stat. 1 R. 2. c. 7,* and divers other statutes. Formerly great men gave liveryes to several who were not of their family, to engage them in their quarrels for that year; but afterwards it was ordained, that no man of any condition whatsoever should give any livery, but to his domestics, his officers, or counsel learned in the law. By *stat. 1 R. 2,* it was prohibited on pain of imprisonment; and the *stat. 1 Hen. 4. c. 7,* made the offenders liable to ransom at the King's will, &c. which statute was farther confirmed and explained, *annis 3 & 7 Hen. 4.* and by *stat. 8 Hen. 6. c. 4* and yet this offence was so deeply rooted, that *Ed. IV.* was obliged to confirm the former statutes, and further to extend the meaning of them, adding a penalty of *6l.* to every one who gave such Livery, and the like on every one retained for maintenance either by writing, oath, or promise, for every month. *Stat. 8 Ed. 4. c. 2.* But most of the above statutes are repealed by *stat. 3 Car. 1. c. 4.*

Livery, in the second signification, meant a delivery of possession to those tenants who held of the King *in capite,* or Knights' service; as the king by his prerogative hath *primer seizin* of all lands and tenements so holden of him. *Staundf. Prerog. 12.*

In the third sense, Livery meant the writ which lay for the heir of age, to obtain the possession of seizin of his lands at the King's hands. *F. N. B. 155.* By the statute 12 *Car. 2. c. 24,* all wardships, Liversies, &c. are taken away. See title *Tenures.*

LIVERY, i. e. Delivery, of Seisin; *Liberatio seizin.*] A delivery of possession of lands, tenements, and hereditaments, unto one that hath a right to the same; being a ceremony in the Common Law used in the conveyance of lands, &c. where an estate of fee-simple, fee-tail, or other frehold passeth. *Bract. lib. 2. c. 18.* And it is a testimonial of the willing departing of him who makes the Livery, from the thing whereof the Livery is made; and of willing acceptance of the other party receiving the Livery; first invented, that the common people *might have* knowledge of the passing or alteration of
estates from man to man, and thereby be better able to try in whom the right of possession of lands and tenements were, if the same should be contested, and they should be impanelled on Juries, or otherwise have to do concerning the same. *West. Symb. par.* 1. *lib.* 2.

The Common-law conveyance by *feoffment* is by no means perfected by the mere words of the deed; this ceremony of *Livery of Seisin* is very material to be performed, for without this the *feoffee* has but a mere estate at will. *Lit.* § 66. This Livery of Seisin is no other than the pure feudal investiture, or delivery of corporeal possession of the land or tenement, which was held absolutely necessary to complete the donation. 2 *Comm.* c. 20. *p.* 311. See this Dictionary, title *Feoffment III; Conveyance; Deed; Estate; Tenures.*

*Investitures,* in their original rise, were probably intended to demonstrate in conquered countries, the actual possession of the Lords and that he did not grant a bare litigious right, which the soldier was ill qualified to prosecute: but a peaceable and firm possession. And at a time when writing was seldom practised, a mere oral gift, at a distance from the spot that was given, was not likely to be either long or accurately retained in the memory of the by-standers, who were very little interested in the grant. Afterwards they were retained as a public and notorious act, that the country might take notice of and testify the transfer of the estate; and that such as claim title by other means might know against whom to bring their actions. 2 *Comm.* 311.

In all well-governed nations some notoriety of this kind has ever been held requisite in order to acquire and ascertain the property of lands. And even in ecclesiastical promotions, where the freehold passes to the person promoted, corporeal possession is required at this day to vest the property completely in the new proprietor: who, according to the canonists, acquires the *jus ad rem,* or inchoate and imperfect right by nomination and institution; but not the *jus in re,* or complete and full right, unless by corporeal possession. Therefore in dignities possession is given by instalment; in rectories and vicarages by induction; without which no temporal rights accrue to the Minister; though every ecclesiastical power is vested in him by institution. So also even in descents of lands by our law, which are cast on the heir by act of the law itself, the heir has not *plenum dominium,* or full and complete ownership, till he has made an actual corporeal entry into the lands; for if he dies before entry made, his heir shall not be entitled to take the possession, but the heir of the person who was last actually seised. 2 *Comm.* 312; see title *Descent.*

The corporeal tradition of lands being sometimes inconvenient, a symbolic delivery of possession was in many cases antiently allowed, by transferring something near at hand, in the presence of credible witnesses; which by agreement should serve to represent the very thing designed to be conveyed; and an occupancy of this sign or symbol was permitted an equivalent to occupancy of the land itself. With our Saxons ancestors the delivery of a turf was a necessary solemnity to establish the conveyance of lands. And to this day the conveyance of our copyhold estates is usually made from the seller to the Lord or his steward, by delivery of a rod or verge; and then from the Lord to the purchaser, by delivery of the same in the presence of a jury of tenants. 2 *Comm.* 313.

Conveyances in writing were the last and most refined improvement. The mere delivery of possession, either actual or symbolic,
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depending on the ocular testimony and remembrance of the witnesses, was liable to be forgotten and misrepresented, and became frequently incapable of proof. Besides, the new occasions and necessities, introduced by the advancement of commerce, required means to be devised of charging and incumbering estates, and of making them liable to a multitude of conditions and minute designations, for the purposes of raising money without an absolute sale of the land; and sometimes like the proceedings were found useful, in order to make a decent and competent provision for the numerous branches of a family, and for other domestic views. None of which could be effected by a mere simple corporal transfer of the soil from one man to another, which was principally calculated for conveying an absolute unlimited dominion. Written deeds were therefore introduced in order to specify and perpetuate the peculiar purposes of the party who conveyed: yet still, for a very long series of years, they were never made use of, but in company with the more antient and notorious method of transfer by delivery of corporeal possession. 2 Comm. 313.

Livery of Seisin, by the Common law, is necessary to be made upon every grant of an estate of freehold, in hereditaments corporeal; whether of inheritance or for life only. In hereditaments incorporeal it is impossible to be made, for they are not objects of the senses; and in Leases for years, or other chattel-interests, it is not necessary; the solemnity being appropriated to the conveyance of a freehold. And this is one reason why freeholds cannot be made to commence in futuro, because they cannot, at the Common Law, be made but by Livery of Seisin: which Livery, being an actual manual tradition of the land, must take effect in presenti, or not at all. 2 Comm. 314. See this Dictionary, titles Limitation of Estate; Remainder.

On the creation of a freehold remainder, at one and the same time with a particular estate for years at the Common Law, Livery must be made to the particular tenant, without which nothing passes to him in remainder; it being for the benefit of him in remainder, and not the lessee who hath only a term: and if the lessee entereth, before Livery and Seisin made to him, the Livery shall be void. Lit. 60: 1 Inst. 49. But if such a remainder be created afterwards, expectant on a lease for years now in being, the Livery must not be made to the lessee for years, for then it operates nothing: nam quod semel meum est, amplius meum esse non potest; but it must be made to the remainder-man by consent of the lessee for years: for without his consent no Livery of the possession can be given; partly because such forcible Livery would be an ejectment of the tenant from his term; and partly for reasons connected with the doctrine of attornments. 2 Comm. 314, 5. See 1 Inst. 48, 9.

A man may make a letter of attorney to deliver seisin by force of the deed, which may be contained in the same deed; and a letter of attorney may be likewise made to receive Livery and Seisin. 5 Refi. 91: Inst. 49, 59.

This Livery of Seisin is either in deed or in law: the distinctions between which are stated and explained in this Dictionary, title Feoffment III. Antiently this seisin was obliged to be delivered coram partibus de vicineto, before the peers or freeholders of the neighbourhood, who attested such delivery in the body or on the back of
the deed: according to the rule of the feudal law, *pares debent interesse investiture feudi, & non ali*: for which this reason is expressly given; because the peers or vassals of the Lord, being bound by their oath of fealty, will take care that no fraud be committed to his prejudice, which strangers might be apt to con clave at. And though afterwards the ocular attestation of the *pares* was held unnecessary, and Livery might be made before any credible witnesses, yet the trial, in case it was disputed (like that of all other attestations) was still reserved to the *pares*, or Jury of the county: and this is the reason why, if lands conveyed by feoffment lie in several counties, there must be as many Liveries of seisin as there are counties.

2 Comm. 315, 6. See title *Feoffment III*. In addition to what is there said, the following determinations afford information on the subject.

Where a house and lands are conveyed, the house is the principal, and the lands accessory; and there the Livery must be made, and not upon the land. 2 Ref. 31: 4 Leon. 374.

If a house or lands belong to an office, by grant of the office by deed, the house or land passeth without Livery: and by a fine, which is a feoffment of record, by a lease and release, bargain and sale by deed inrolled, exchange, &c. a freehold passeth without Livery; and so in a deed of feoffment to uses, by virtue of the statute of uses. 1 Inst. 49. So that Livery and Seisin is not so commonly used as formerly: neither can an estate be created now by Livery and Seisin only, without writing. Stat. 29 Car. 2. c. 3. See titles *Conveyance; Estate*.

If a deed of feoffment be delivered upon the land, "in the name of seisin of all the lands," it will be a good Livery and Seisin; but the bare delivery of a deed upon the land, though it may make the deed, it shall not amount to Livery and Seisin without those words. 1 Inst. 52, 181. If one makes a feoffment to four persons, and Seisin is delivered to three of them, in the name of all; the estate is vested in all of them. 3 Ref. 26.

No person ought to be in the house or upon the land, when Livery is made, but the feoffor and feoffee; all others are to be removed from it: if the lessor feoffor makes Livery and Seisin, the lessee being upon the land contradicting it, the Livery is void. Cro. Eliz. 321. Dalis. Ref. 94.

Form of Livery and Seisin indorsed on the deed.

**MEMORANDUM.** That on the day and year within written, full possession and seisin was had and taken of the messuage or tenement, and premises within granted, by A. B. one of the attorneys within named, and by him delivered over unto the within named C. D. To hold to him, his heirs, &c. according to the contents and true meaning of the within written indenture, in the presence of, &c.

**LIVERY AND OUSTER LE MAIN.** Where by inquest before the Escheator, it was found that nothing was held of the King; then he was immediately commanded by writ, to put from his hands the lands taken into the King's hands. Stat. 29 Ed. 1: 28 Ed. 3. c. 4. See Ouster le Main.

**LIVERY-MEN OF LONDON.** In the Companies of London, Livery-men are chosen out of the freemen, as assistants to the masters and wardens, in matters of council, and for better government; and if any one of the Company refuse to take upon him the office, he
may be fined, and an action of debt will lie for the sum. 1 Mod. 10.

LIVRE, The denomination of a French coin, valued at ten-pence-halfpenny.

LOBBE, A large kind of North-sea fish. See stat. 31 Ed. 3. st. 3.
c. 2. And loch comprehends lob, ling, and cod.

LOBSTERS, May be imported by natives or foreigners, and in
any vessels, notwithstanding stat. 10 & 11 W. 3. c. 24; 1 Geo. 1. stat.
c. 18. No person shall, with trunks, hoop-nets, &c. take any lob-
sters on the sea coast of Scotland, from the 1st of June, to the 1st of
September yearly, on pain of 5l. to be recovered before two Justices.

LOTAL, localis.] Tied or annexed to a certain place: Real ac-

tions are Local, and to be brought in the county where the lands lie;
but a personal action, as of trespass or battery, &c. is transitory, not local;
and it is not material that the action should be tried, or laid in
the same county where the fact was done; and if the place be set
down, it is not needful that the defendant should traverse the place;
by saying he did not commit the battery in the place mentioned, &c.
Kitch. 230. See titles Action; Venue. A thing is Local that is fixed to

LOCKMAN. In the Isle of Man, the Lockman is an officer to
execute the orders of the governor, much like our under-sheriff.

KING's Descrip. Isle of Man, 26.

LOCKS, In navigation: To destroy any sluice or lock on a navig-
gable river, is made felony without benefit of clergy, and the offender
may be tried, as well in an adjacent county as in that wherein the
act is committed. Stat. 8 Geo. 2. c. 20, made perpetual by stat. 17 Geo.
c. 16.

LOCUS, A coffin. Sim. Dunelm. c. 6.

LOCUS IN QUO, The place where any thing is alleged to be
done in pleadings, &c. 1 Salk. 94. See title Trespass.

LOCUS PARTITUS, A division made between two towns or

counties, to make trial where the land or place in question lieth. Flet.
lib. 4. c. 15.

LOCUTORIUM. The Monks and other religious in monasteries,
after they had dined in their common hall, had a withdrawing-room,
where they met and talked together among themselves, which room,
for that sociable use and conversation, they called locutorium, à lo-
quendo; as we call such a place in our houses parlour, from the
French parler: and they had another room which was called locuto-
rium forinsecum, where they may talk with laymen. Walsing. 257.

LODE-MANAGE, The hire of a pilot, for conducting a vessel
from one place to another. Cowell. The pilot receives a Lode-man-
age of the master for conducting the ship up the river or into port;
but the loadsman is he that undertakes to bring a ship through the
haven, after being brought thither by the pilot, to the quay or place of
discharge: and if through his ignorance, negligence, or other fault,
the ship or merchandise receive any damage, action lies against
him at the Common Law. Roughton, fol. 27.

LODE-MEREGE, Mentioned in the laws of Oleron is expound-
ed to be the skill or art of navigation. Cowell. Quere, if it is not a
corruption of Lode-manage.
LODE-SHIP, a kind of fishing-vessel, mentioned in stat. 31 Ed. 3. c. 2.

LODGERS and LODGINGS. Stealing furniture from lodgings, felony, stat. 3 & 4 W. & M. c. 9. See titles Felony; Larceny.

LOGATING, An unlawful game, mentioned in stat. 33 H. 8. c. 9; now disused.


LOGWOOD, *lignum tinctorum.*] Wood used by dyers brought from foreign parts; prohibited by stat. 23 Eliz. c. 9, but allowed to be imported by stat. 14 Car. 2. c. 11. See title Navigation Acts.

LOITH, or LOYCH FISH, A large North-sea fish, mentioned in stat. 31 Ed. 3. st. 3. c. 2. Vide Lobbe.

LOLLARDS, Had their name from one Walter Lollard, a German at the head of them, who lived about the year 1315. And they were certain Hereticks, (in the opinion of those times) that abounded here in England, in the reigns of King Edward III. and Hen. V. whereof Wickliffe was the chief in this nation. Stow's Annals, 425. Spotswood in his History of Scotland, says, The intent of these Lollards was to subvert the Christian faith, the law of God, the church, and the realm; and so said the stat. 2 Hen. 5. c. 7. But that statute was repealed 1 Ed. 6. c. 12. Several decrees were made by our Archbishops against those Sectarists, as well as statutes; and the High Sheriff of every county was antiently bound by his oath to suppress them. 3 Inst. 41. See title Heresy. These Lollards were in fact the founders of the Protestant Religion.

LOLLARDY, The doctrine and opinion of the Lollards. See stat. 1 & 2 P. & M. c. 6.

LOMBARDS. The company shall be answerable for their debts. 25 Ed. 3. stat. 5. c. 23. See titles Bills of Exchange.

LONDON.

The Metropolis of this kingdom, formerly called Augusta, has been built above three thousand years, and flourished for fifteen hundred years. Its Exchange, where merchants of all nations meet, is not to be equalled; and for stateliness of buildings, extent of bounds, learning, arts and sciences, traffick and trade, this city gives place to none in the world. Stow.

London is a county of itself. 4 Inst. 248. See this Dictionary, title Counties-Corporate. So it is a corporation by prescription, known by several names. 2 Inst. 330, Quo Warranto, fassim.

During the violent proceedings that took place in the latter end of the reign of King Charles II. it was, among other things, thought expedient to new model most of the corporation towns in the kingdom: for which purpose many of those bodies were persuaded to surrender their charters; and informations in the nature of Quo Warranto were brought against others, upon a supposed, or frequently a real forfeiture of their franchises by neglect or abuse of them; and the consequence was, that the liberties of most of them were seised into the hands of the King, who granted them fresh charters, with such alterations as were thought expedient; and during their state of anarchy the Crown named all their magistrates. This exertion of power, though perhaps, in summo jure, it
was for the most part strictly legal, gave a great and just alarm; the
new-modelling of all corporations being a very large stride towards
establishing arbitrary power; and therefore it was thought neces-
sary, at the Revolution, to bridle this branch of the prerogative, at
least so far as regarded the metropolis, by stat. 2 W. & M. st. 1. c. 8;
which enacts, that the franchises of the city of London shall never
hereafter be seised or forejudged for any forfeiture or misdemeanor
 whatsoever. The Quo Warranto against London issued in Trinity
term, 35 C. 2, on which judgment was given in B. R. that the charter
and franchises of the said city should be seised into the King's hands
as forfeited. This judgment was reversed by the above stat. 2 W. &
M. and all officers and companies restored, &c.; and the act provided,
that the Mayor, Commonally, and Citizens of the city of London
should for ever thereafter be, and prescribe to be, a Body Corporate
and politic, &c.; and enjoy all their franchises, &c. See 3 Comm. 263,
4. Before this, by Magna Carta, c. 9, it was provided, that the city of
London should have all their antient usages, liberties, and customs
which they had used to enjoy; which is confirmed by stat. 14 Ed. 3. st.
1. c. 1.

It is divided into twenty-six Wards, over each of which there is an
Alderman; and is governed by a Lord Mayor, who is chosen yearly,
and presented to the King, or in his absence to his Justices, or the
Barons of the Exchequer at Westminster. Chart. K. Hen. III.

Before the time of Henry III.: the city was divided into twenty-four
Wards. By Parliament Anno 17 R. 2, Farringdon-without was severed
from Farringdon-within, and made a distinct ward. By charter 1 Ed.
3, and patent 4 Ed. 6, the King granted to the citizens and their suc-
cessors, the villa, manor, and borough of Southwark; whereupon, by
an order of the Court of Mayor and Aldermen, confirmed by the
Common Council, Southwark was made the 26th ward, by the name of
the Bridge Ward without; on the last day of July, 4 Ed. 6. See
Com. Dig. title London (A).

Before and since the Conquest, to the time of Ric. I. London was
governed by a Port-Reeve, and 1 R. 1. by two bailiffs, and afterwards
by a Mayor appointed by the King; but King John, in the 10th of his
reign, granted them liberty to chuse a Mayor. 2 Inst. 253. See 2 Stow.
450: Com. Dig. title London (C). The presenting and swearing of the
Lord Mayor at Westminster, to be on the 9th of November, New
Style. 24 Geo. 2. c. 48. § 11; to be admitted and sworn at Guildhall,
London, the day preceding; Stat. 25 Geo. 2. c. 30. § 4.

The Lord Mayor of London, for the time being, is Chief Justice of
gazl delivery; Escheator within the liberties, and Bailiff of the ri-
ver Thames, &c. He is a high officer in the city, having all Courts
for distribution of justice under his jurisdiction, viz. The Court of
Hustings, Sheriff's Court, Mayor's Court, Court of Common Coun-
cil, &c. 2 Inst. 330.

There are three ways to be a freeman of London: by servitude of
an apprenticeship; by birthright, as being the son of a freeman; and
by redemption, i. e. by purchase, under an order of the Court of Al-
dermen. 4 Mod. 145.

The child of a freeman when of age, may, in consideration of a
present fortune, bar herself of her customary part. 2 Strange 947.
An agreement on marriage, that the husband shall take up the free-
dom of London, binds the distribution of his effects. 1 Strange 453.
See title Executor V. 9.
King Henry IV. granted to the Mayor and Commonalty of London the assise of bread, beer, ale, &c. and victuals, and things saleable in the city. In London every day, except Sunday, is a market over, for the buying and selling of goods and merchandize, 5 Rep. 85. But no person, not being a freeman of London shall keep any shop or other place to put to sale by retail any goods or wares, or use any handicraft trade for hire, gain or sale within the city, upon pain of forfeiting 5l. 8 Rep. 124: Chart. Car. I.

Persons making ill and unserviceable goods in London, the chief officers of the company to which such persons do or ought to belong, may seize and carry them to the Guild-hall, and have the goods tried by a Jury; and if found defective, they may break them, &c. Trin. 34 Car. 2 B. R. A person must be a freeman of London to be entitled to carry on merchandize there. Chart. Car. I.

By charter Henry I. all the men of London, and all their goods shall be free from scot and lot, dance-gilt and murder; and from all toll, passage and Lestage, and all other customs through all England and the ports of the sea. So by charters 11 Hen. 3, and 50 H. 3. See & Inst. 252. But he who claims these privileges must not only be a freeman, but an inhabitant of London. 1 H. Black. Rep. 206: 4 Term Rep. 144.

The customs of London are many and various.—They are against the Common Law, but made good by special usage, and confirmed by act of Parliament. 4 Inst. 249: 8 Rep. 126. In setting forth a custom or usage in the city of London, it must be said antiqua civitas, or it will not be good. 2 Lea. 99.

There is a custom in London to punish by information in the Mayor’s Court, in the name of the common serjeant of the city, assaults on aldermen, and affronting language, &c. 7 Mod. 28, 29.

Where a woman exerciseth a trade in London, wherein her husband doth not intermeddle, by the custom she shall have all advantages, be sued as a feme sole merchant; but if the husband meddle with the trade of the wife, or carry on the same trade, it is otherwise. 1 Cro. 63; 3 K. 902. See tidies Baron and Feme; Bankruptcy.

An arrest may be made in London on the plaintiff’s entering his plaint in either of the Compters, and a serjeant of London need not shew his mace when he arrests one; and the liberties of the city extend to the suburbs and Temple Bar; Jenk. Cent. 291.

The customs of the city of London shall be tried by the certificate of the Mayor and Aldermen, certified by the mouth of their Recorder, upon a surmise from the party alleging it, that the custom ought to be thus tried; else it must be tried by the county. 1 Inst. 74: 4 Burr. 248; Bro. Ayr. title Trial. pl. 96. As, the custom of distributing the effects of freemen deceased; (see this Dictionary, title Executor V. 9.) of enrolling apprentices; or that he who is free of one trade may use another; if any of these or other similar points come in issue. But this rule admits of an exception where the corporation of London is party, or interested in the suit: as in action brought for a penalty inflicted upon by the custom: for there the reason of the law will not endure so partial a trial: but this custom shall in such case be determined by a Jury, Hob. 85. In some cases the Sheriff of London’s certificate shall be the final trial; as if the issue be whether the defendant be a citizen of London or foreigner, in case of privilege pleaded to be sued only in the city Courts, 1 Inst. 74. See this Dictionary, title Customs of London.
Upon the customs of London concerning the payment of wharfage, 
&c. by every freeman to the corporation, the trial shall not be by 
the mouth of the recorder, as customs generally are, but by the coun-
try, and a Jury from Surry adjoining. Moor. c. 129.

The Mayor of London is to cause errors, defaults, and misprisions 
there to be redressed, under the penalty of 1000 marks; and the con-
stable of the Tower shall execute process against the Mayor for de-
fault, &c. 28 Ed. 3. c. 10. See state. 17 R. 2. c. 12: 1 H. 4. c. 15, by 
which latter the fine is to be at the discretion of the Justices.

The several Courts within the city of London (and other cities and 
corporations throughout the kingdom) held by prescription, charter, 
or act of parliament, are of a private and limited species. The chief 
of those in London are the Sheriff’s Court, holden before their Steward 
or Judge; from which a writ of error lies to the Court of Hustings, 
before the Mayor, Recorder, and Sheriffs: and from thence to Jus-
tices appointed by the King's Commission, who used to sit in the 
court of St. Martin-le-grand. F. N. B. 32. And from the judgment 
of those Justices a writ of error lies immediately to the House of 
Lords. 3 Comm. 80, n. See this Dictionary; titles Courts; Court of 
Hustings; Inferior Courts, &c.

The Court of Requests, or Court of Conscience for the recovery of 
debts not exceeding 40s. was first established in London, so early 
as the reign of Henry VIII. by an act of their Common Council: 
which was however certainly insufficient for that purpose, and illegal, 
till confirmed by stat. 3 Jac. 1. c. 15, which has since been explained 
and amended by stat. 14 Geo. 2. c. 10: 3 Comm. 81. See this Diction-
ary, title Courts of Conscience; and the Addenda at the end of this 
volume.

The gaol-delivery for the county of Middlesex, as well as that for 
London, being held at the Old Bailey in the city of London, eight 
times in the year, it is by stat. 25 Geo. 3. c. 18, provided, that when 
such Session shall have begun before the Essoin-day of any Term, it 
may continue to be held, and be concluded notwithstanding the sit-
ting of the Court of King's Bench. And this Act, by stat. 32 Geo. 3. 
c. 48, is extended to the Middlesex Sessions. See title Justices of Gaol 
Delivery.

After the fire of London, a Judicature was enacted for determining 
differences relating to houses burnt; and several rules were laid down 
for rebuilding the city, the several streets, lanes, &c. The Lord Mayor 
and Aldermen were to set out markets; the number of parishes and chur-
ches was ascertained, and a duty granted on coals for rebuilding the chur-
ches, &c. See stats. 19 Car. 2. cc. 2, 3; 22 Car. 2. cc. 1, 11, 14: 25 C. 2. c. 10.

A great variety of statutes have been passed to regulate various con-
cerns of the city of London, besides those already alluded to: the fol-
lowing is a very short abstract of the purport of those most material: 
and see title Police.

By stat. Civ. London, 13 Ed. 1. st. 5, None shall walk the streets 
armed after curfew; unless noblemen or their servants with lights; 
taverns and alehouses shall be shut at curfew; fencing schools for 
buckler shall not be kept in London; none but freemen shall keep 
inn's in the city; none shall be brokers in London but those who are 
admited and sworn by the Mayor and Aldermen; (see post, Brokers;) 
the officers of the city shall not be punished for false imprisonment, 
unless it appear to be of malice.

The manner of proceeding for arrears of rent and services. Stat. de Gavelet, 10 E. 2.

Merchants of London free to pack their cloths. Stat. 1 H. 4. c. 16. Freemen of London may carry their goods to any Fair or market; notwithstanding their bye-laws. Stat. 3 H. 7. c. 9.

All vintners, victuallers, fishmongers, butchers, and poulterers to be under the rule of the Mayor and Aldermen. Stats. 31 E. 3. stat. 1. c. 10: 7 R. 2. c. 11.

The 2d of September to be observed annually as a public Fast; in commemoration of the dreadful fire in 1666. Stat. 19 Car. 2. c. 3.

See this Dictionary under the several titles following, and the statutes referred to, for further information.

Aldermen; not to be elected yearly, but remain till they are put out for reasonable cause. Stat. 17 R. 2. c. 11. Their negative in Common Council, established: stat. 11 Geo. 1. c. 18. § 15. Repealed; stat. 19 Geo. 2. c. 8.

Attaint; proceedings in, regulated, Stats. 11 H. 7. c. 21. § 2: 37 H. 8. c. 5. § 3.

Ballastage; See stats. 6 Geo. 2. c. 29: 3 Geo. 2. c. 16.

Blackwell-Hall; market for the sale of woollen-cloth, to be held there every Thursday, Friday, and Saturday; and regulations relating thereto. Stat. 8 & 9 W. 3. c. 9; and see stats. 4 & 5 P. & M. c. 5. § 26: 39 Eliz. c. 20. § 12; 1 Geo. 1. c. 15.

Bowyers; See stat. 8 Eliz. c. 10.

Bread; See title Bread in this Dictionary.

Bridges; See stat. 29 Geo. 2. c. 40, for pulling down the houses on London-Bridge, and regulating the passing of carriages thereon, those passing from London on the East side, those passing to it on the West; and see Lamps.

Brokers; to pay 40s. per annum. on their admission by the Court of Aldermen. Stat. 6 Ann. c. 16. See Pawn-brokers.

Buildings; regulated and divided into seven rates or classes; their height, party-walls; &c. determined. Preventions against fire, (see Fires) &c. Stat. 14 Geo. 3. c. 78. See Police.

Butchers; not to slay beasts within the walls of the city. Stat. 4 H. 7. c. 3.

Carriers; regulation of their charges. Stat. 21 Geo. 2. c. 28.

Carts; penalty on drivers riding on their carts, 16s. or 20s. if owner of the cart. Stat. 1 Geo. 1. st. 2. c. 57: 24 Geo. 2. c. 43: 30 Geo. 2. c. 22: Owner's name and number to be put on them. Stats. 18 Geo. 2. c. 33: 30 Geo. 2. c. 22: 7 Geo. 3. c. 44: 24 Geo. 3. st. 2. c. 27; which also contain regulations for the behaviour of the drivers. See Police.

Cattle; salesman not to buy cattle on the road. Stat. 31 Geo. 2. c. 40. Regulations as to driving cattle. Stat. 21 Geo. 3. c. 67. See Police.

Churches; see stat. 1 Ann. at. 2. c. 12: Buildings erected on any part of St. Paul's church-yard, (except the chapter-house,) to be deemed common nuisances. See also stats. 9 Ann. c. 22: 10 Ann. c. 11: 1 Geo. 1. c. 23, &c. as to building 50 new churches by a duty on coals.
Coaches and Chairs; See this Dictionary, title Coaches.
Coals; See this Dictionary, title Coals.
Cooper's Company; regulated by stat. 23 H. 8. c. 4. and see stat. 31 Eliz. c. 8.
Corn; See this Dictionary, title Corn.
Docks, Quays and Harbours. See stats. 39 Geo. 3. c. lxix: 39 & 40 Geo. 3. c. xlviii: 42 Geo. 3. c. cxlii: & 43 Geo. 3. c. cxxvi: and several other local acts; and the public acts, 44 Geo. 3. 100: 46 Geo. 3. c. 118, &c.

Dyers; regulations as to journeymen, servants, and labourers. Stat. 17 Geo. 3. c. 33. Control of the Dyers' Company to prevent frauds in dying woollen goods. Stat. 23 Geo. 3. c. 15.

Elections; of Aldermen and Common Council-men, are to be by free-men householders, paying scot and lot, and having houses of the value of 10l. a-year; and none shall vote at election of members of parliament, but livery-men that have been twelve months on the livery, not discharged from payment of taxes, nor having received alms, &c.

Fish; for regulating Billingsgate market, see stat. 10 & 11 W. 3. c. 24: powers given to the Fishmongers' Company, stat. 9 Ann. c. 26. As to the power of the Court of Mayor and Aldermen as Conservators of the river Thames; and of their deputy the Water-bailiff; See stat. 30 Geo. 2. c. 21. Forestalling fish, see stats. 29 Geo. 2. c. 39: 33 Geo. 2. c. 27: 2 Geo. 3. c. 15: 42 Geo. 3. c. lxxxviii.

Freemen of London may dispose of their personal estates by will as they think fit, notwithstanding the custom of the city; but which custom remains in force as to Estates, and in case of marriage agreements. Stat. 11 Geo. 1. c. 16: See this Dictionary, titles Executor :V. Marriage.

Fuel, and Billet-wood; regulations as to assizing and making. Stats. 9 Ann. c. 15: 10 Ann. c. 6.

Hay; regulating the weight and sale of. Stats. 2 W. & M. st. 2. c. 8: 8 W. 3. c. 17: 31 Geo. 2. c. 40: 11 Geo. 3. c. 15.

Horners; See stat. 4 Ed. 4. c. 8, repealed by stat. 1 Jac. 1. c. 25; but revived by stat. 7 Jac. 1. c. 14.

Insurance; See this Dictionary, title Insurance; as to the Courts for trial of insurance causes, and the establishment of the Insurance Companies.

Leather; regulations for the sale and manufacture of, see stats. 5 & 6 Eliz. 6. c. 15: 1 Mar. st. 3. c. 8: 1 Jac. 1. c. 22: 13 & 14 Car. 2. c. 7; (under which the market at Leadenhall for Leather is held every Tuesday;) 1 W. & M. st. 1. c. 33.

Militia, embodying and regulating; See stats. 13 & 14 Car. 2. c. 3: 26 Geo. 3. c. 107: 34 Geo. 3. c. 81: 36 Geo. 3. c. 92: 39 Geo. 3. c. 82: (37 Geo. 3. cc. 25, 75, Tower Hamlets,) 42 Geo. 3. c. 90. § 153, and this Dictionary, title Militia.

Oath of a freeman, altered by stat. 11 Geo. 1. c. 18, § 19.


Orphans' Fund; established, regulated, and applied; See stats. 5 & 6 W. & M. c. 10: 21 Geo. 2. c. 29: 7 Geo. 3. c. 37. See title Orphans.

Painters, regulated. stat. 1. c. 10.

Paving, lighting, cleansing, and watching; the provisions of the statutes for these purposes are various and minute. See stats. 10 Geo. 2. c. 22: 11 Geo. 3. c. 29: See title Police. As to the Sunday toll at
Blackfriars-bridge, See stat. 26 Geo. 3. c. 7.—As to improvements at Temple Bar, and Snow Hill, See 42 Geo. 3. c. lxxiii. and other local Acts.

Physicians, apothecaries, and surgeons, subject to the control of the College of Physicians in London, and exempted from offices. See stats. 3 H. 8. c. 11: 5 H. 8. c. 6: 14 & 15 H. 8. c. 5: 32 H. 8. c. 40: 34 & 35 H. 8. c. 8: 1 Mary, st. 2. c. 9: 6 Will. 3. c. 4. The Companies of Barbers and Surgeons united, stat. 32 H. 8. c. 42. The union dissolved, and regulations made for the Surgeons' Company, stat. 18 Geo. 2. c. 15.

Poor: Guardians of the work-houses appointed, and regulations as to the infant poor. Stat. 13 & 14 Car. 2. c. 12: 22 & 23 Car. 2. c. 18: 2 Geo. 3. c. 22.

Sewers, in London subjected to the Commissioners of Sewers: Stat. 3 Jac. 1. c. 14.

Scavengers, See stat. 22 H. 8. c. 8; and this Dictionary, title Scavage. Scavengers, See this Dictionary under that title.

Shoemakers; regulated. Stat. 9 Geo. 1. c. 27.

Silk-throwers and weavers, regulation of their wages. Stats. 13 & 14 Car. 2. c. 15: 20 Car. 2. c. 6: 13 Geo. 3. c. 68.

Southwark, regulations as to its market. Stats. 28 Geo. 2. cc. 9, 23: 30 Geo. 2. c. 31. As to paving and lighting, &c. Stats. 6 Geo. 3. c. 24: 11 Geo. 3. c. 17: 44 Geo. 3. c. lxxvi.

Spices; See this Dictionary, title Garibher.

Stillyard; See stat. 19 H. 7. c. 25.

Streets; Scavengers are to be elected in London, and within the bills of mortality, in each parish, by the constable, churchwardens, &c. to see that the streets be kept clean; and housekeepers are to sweep and cleanse the streets every Wednesday and Saturday, under penalties. stat. 2 W. & M. st. 2. c. 1. Further regulations are also made by stats. 8 & 9 W. 3. c. 37: 6 Geo. 1. c. 6. § 1: 18 Geo. 2. c. 33. §§ 2, 3. See title Police.

Taylors; their wages are regulated in London and Westminster. Stat. 7 Geo. 1. c. 13.

Thames; rules for the conservation of. Stats. 4 H. 7. c. 15: 27 H. 3. c. 18.

Tithes; of the parishes in London, settled by stat. 37 H. 8. c. 12, according to a decree of the archbishop, &c.

The tithes of the parishes in London, the churches whereof were burnt, were appointed; none less than 100l. per ann. nor above 200l. per ann. to be assessed and levied quarterly. Stat. 22 & 23 Car. 2. c. 15.

Water-works; to supply the city with water. See stat. 35 H. 8. c. 10: and 3 Jac. 1. c. 18: 4 Jac. 1. c. 12; as to the New River; and 7 Jac. 1. c. 9, as to Chelsea Water-works.

Commissioners appointed for supplying the city of London with water from the river Thames, &c. And casting filth into water-courses, incurs 40s. penalty. Stat. 8 Geo. 1. c. 25.

Watermen; for regulating their fares, and the Company of Watermen, and their conduct as to apprentices, their privilege from being pressed, &c. See stats. 2 & 3 P. & M. c. 16: 8 Eliz. c. 13: 1 Jac. 1. c. 16: 11 & 12 W. 3. c. 21: 4 & 5 Ann. cc. 13, 19: 2 Geo. 2. c. 26: 4 Geo. 2. c. 24: 10 Geo. 2. c. 31: 2 Geo. 3. c. 28, the last act as to selling liquors, &c. to seamen, and embezzling ships' stores, &c.

Wharfage; regulations of rates of wharfage and cranage, and the
situations of wharves, are settled by stat. 22 Car. 2. c. 11.—See 46 Geo. 3. c. 118, as to purchasing the legal Quays by government.

Weights and Measures; inspectors of, appointed in the parish of St. Mary-le-bone. Stat. 10 Geo. 3. c. 23. § 81.—132.

WESTMINSTER. Several acts have been passed for the internal regulation of this district of the metropolis, viz. a private statute passed in 27 Eliz. continued and confirmed by stat. 16 Car. 1. c. 4. for the nomination and appointment of burgesses and chief burgesses. The stats. 29 Geo. 2. c. 23: 31 Geo. 2. c. 17, as to the appointment of Constables and Annoyance-Juries, and the sealing weights and measures. Stat. 31 Geo. 2. c. 25, (never carried into execution,) for a free market. As to paving, cleansing, and lighting the streets, squares, lanes, &c. in Westminster, and parts adjacent; See stats. 2 Geo. 3. c. 21: 3 Geo. 3. c. 23: 4 Geo. 3. c. 39: [5 Geo. 3. c. 13: 26 Geo. 3. c. 102, imposing certain street-tolls for those purposes] 5 Geo. 3. c. 50: 11 Geo. 3. c. 22: The stats. 14 Geo. 3. c. 90, was passed for regulating the nightly watch within the same precincts or boundaries.

See also 44 Geo. 3. c. 61, for building a new Sessions House; and 46 Geo. 3. c. 89, for improvement of the streets and places near Westminster Hall, and the two houses of Parliament.

Wills. By stat. 11 Geo. 1. c. 18, § 17, 18, Freemen of London were empowered to dispose of their personal estates by will, as they think fit, notwithstanding the custom of the city; but which remains as before in cases of intestacy, and of agreements in consideration of marriage. See this Dictionary, titles Executor V. 9: Marriage.

LONDON ASSURANCE; See Insurance.

LONGELLUS, A word used in Thorn's Chronicle, it signifies a coverlet. Cowell.

LONGITUDE of a place, In geography, is an arch of the equator intercepted between the first meridian, and the meridian passing through the proposed place; which is always equal to the angle at the pole, formed by the first meridian, and the meridian of the place.

The first meridian may be placed at pleasure, passing through any place, as London, Paris, Teneriffe, &c. but with us it is generally fixed at London; and the degrees of Longitude counted from it, will be either East or West, according as they lie on the east or west side of that meridian.

In other words, to explain the subject in a familiar manner, to those wholly unacquainted with it, as by the Latitude we learn the distance North or South, so by knowing the Longitude, we know the distance from any given place, East or West; allowing for the difference of a degree of Longitude at the equator (or middle of the globe) and at the Arctic Circle, &c.

The Longitude is, as before described, in other words, the distance of a place East or West, from that imaginary line drawn from North to South, through a place fixed on for that purpose, and called the first meridian, i.e. the meridian or boundary from whence we reckon East or West; so that by ascertaining the Latitude and Longitude of a place, its situation on the natural or artificial globe, with respect to all other places, is known.

By stats. 12 Ann. st. 2. c. 15: 26 Geo. 2. c. 25: 30 Geo. 3. c. 14, the Lord Admiral and Commissioners of the Admiralty were appointed Commissioners to receive proposals for the discovery of a method to Vol. IV.
ascertain the Longitude at sea; and were empowered to give rewards accordingly. Under stat. 5 Geo. 3. c. 20; 43 Geo. 3. c. 118; 45 Geo. 3. c. 77, the Commissioners may construct and publish nautical almanacks, which none must publish without their licence, under forfeiture of 20/. to be sued for by the Commissioners' secretary. By stat. 14 Geo. 3. c. 66, (repealing all former acts, except such clauses of them as relate to the authority of the Commissioners,) rewards of 5,000l. 7,500l. and 10,000l. are offered to the discoverer of a method to find the Longitude: in the first instance if determined within one degree, in the second if within two-thirds, and in the last if within half a degree. By this statute, and stats. 21 Geo. 3. c. 52; 30 Geo. 3. c. 12; 43 Geo. 3. c. 118; 46 Geo. 3. c. 77, the Commissioners have been from time to time empowered to grant smaller rewards for less useful discoveries on the same account, not exceeding the sums marked under each statute.

By stat. 16 Geo. 3. c. 6, if any ship discovers a passage between the Atlantic and Pacific oceans beyond the 52d degree of North latitude, the owner or commander, if a King's ship, shall receive 20,000l.; and 5,000l. shall be given in like manner to the first ship that shall approach within one degree of the North Pole.


LORD, dominus.] A word or title of honour, diversely used, being attributed not only to those who are noble by birth or creation, otherwise called Lords of Parliament, and Peers of the realm; but to such, so called by the courtesy of England, as all the sons of a duke, and the eldest son of an earl; and to persons honourable by office, as the Lord Chief Justice, &c. and sometimes to a private person, that hath the fee of a manor, and consequently the homage of the tenants within his manor; for by his tenants he is called Lord. In this last signification, it is most used in our law-books; where it is divided into Lord Paramount, and Lord Mesne; and Very Lord, &c. Old. Nat. Br. 79.

See titles Mean; Nobility; Parliament; Peers.

LORD HIGH ADMIRAL; See Admiral.

LORD IN GROSS, F. N. B. fol. 3, Is he that is Lord, having no manor, as the King in respect of his Crown. Ibid. fol. 5; and there is a case wherein a private man is Lord in gross, viz. A man makes a gift in tail of all the lands he hath, to hold of him, and dieth; his heir hath but a seigniory in gross. F. N. R. 8.

LORD OF A MANOR; See Copyhold.

LORD AND VASSAL. In the time of the feodal tenures, the grantor of land was called the Proprietor, or Lord; being the person who retained the dominion or ultimate property of the feud or fee: and the grantee, who had only the use of possession, according to the term of the grant, was styled the Feudatory or Vassal, which was only another name for the tenant or holder of the lands; though, on account of the prejudices we have justly conceived against the doctrines which were afterwards grafted on this system, we now use the word vassal, oppressiously as synonymous to slave or bondman. 2 Comm. 53. See this Dictionary, title Tenures.

LORDS MARCHERS; See Wales.

LORIMERS, Fr. Lormiers, from Lat. lorum.] One of the companies of London, that make bits for bridles, spurs, and such like small iron ware, mentioned in stat. 1 R. 2. c. 12.
LOT; A contribution, or duty. See Scot.
LOT or LOTH, The thirteenth dish of lead in the mines of Derbyshire, which belongs to the King. Esch. At. Anno 16 Ed. 1. See Coph.
LOTHERWITE, or LEYERWIT, A liberty or privilege to make amends of him that defleth a bond-woman without license; Rastall's Exposition of Words; so that it is an amends for lying with a bond-woman. Cowell. See Lairwite.
LOTTERIES. Several statues have been from time to time made for raising money for the use of Government, by way of Lottery. These State Lotteries are publickly drawn, by commissioners appointed, according to schemes, which vary almost every year.
It has been a disputed point among politicians, whether the benefits of a Lottery arising from the large sum thus voluntarily subscribed to the exigencies of the Government, are not more than counterbalanced by the evils through this means introduced, formerly by private Lotteries, and, of late years, by the more pernicious mode of gambling by insurance of numbers. Repeated attempts have been made to repress this fatal mischief, and the measure of treating the persons taking money for insurance as regnies and vagabonds, seems to have been attended with the most success. The following is a short summary of acts now in force on this subject. See also this Dictionary, titles Advertisements; Gaming.
Statute 10 & 11 W. 3. c. 17, Declares all Lotteries public nuisances; and all patents for Lotteries void, and against law; (the State Lotteries are all managed under annual acts of parliament passed for each;) imposes a penalty of 500l. on every proprietor of a private Lottery, and 20l. on each adventurer.
Stat. 9 An. c. 6, Commands Justices of Peace to assist in suppressing private Lotteries.
Stat. 10 An. c. 26, Imposes the like penalty of 500l. on persons keeping offices for illegal insurances on marriages, &c. under various pretexts.
Stat. 5 Geo. 1. c. 9, puts the sale of Chances on the footing of private Lotteries, and imposes a penalty of 100l. (above all other penalties,) recoverable by the persons possessed of the ticket, the chance of which was sold; and the offender may also be committed to the county gaol for a year.
Stat. 8 Geo. 1. c. 2, imposes a penalty of 500l. on persons keeping offices for the disposal of houses, lands, advowsons, &c. by Lottery; and adventurers to forfeit double the sum contributed.
This statute and those of 10 & 11 W. 3, and 9 Ann. above mentioned, are explained and rendered more effectual by stat. 12 Geo. 2. c. 28, which imposes 10l. penalty on Justices neglecting their duty under those acts; and prohibits the games of Ace of Hearts, Pharaoh, Basset, and Hazard, as Lotteries, and imposes 50l. penalty on the players: and see stat. 13 Geo. 2. c. 12, as to the game of Passage and other games with dice.
Stats. 9 Geo. 1. c. 19, and 6 Geo. 2. c. 35, impose a penalty of 200l. and a year's imprisonment, on persons selling tickets in, or publishing schemes of, any foreign Lottery. Ireland is excepted under stat. 22 Geo. 3. c. 47. Stat. 29 Geo. 2. c. 7. provided that offences against the English acts against private Lotteries, though committed in Ire-
land, shall be liable to all the penalties imposed, as if they were committed in England.

By stat. 22 Geo. 3. c. 47, All Lottery-office keepers must take out a licence from the Stamp-office, for which they pay 50l. Offices to be open only from eight in the morning to eight in the evening (except the Saturday evening preceding the drawing), the sale of chances (and shares of tickets not their own), prohibited under 50l. penalty; shares to be stamped.

By stat. 27 Geo. 3. c. 1, All unlicensed Lottery-office keepers, and all persons, directly or indirectly, as principals or servants, selling chances, or insuring or causing any person to insure for or against the drawing of any ticket in any state Lottery; shall be deemed rogues and vagabonds within the strict letter of stat. 17 Geo. 2. c. 5, and other statutes relating to vagabonds. But the proprietor of a whole ticket may insure it, for its value only, with a licensed office-keeper for the whole time of drawing, (from the time of the insurance,) under a bona fide agreement (without stamps). Persons convicted as vagabonds are discharged from the pecuniary penalties.

Of late years the regulations as to the sale of tickets and chances have been very variable, and by some of the annual Lottery Acts the provisions of former Acts are repealed, altered, or modified; as seemed most likely to secure the sale of the tickets. See the Acts, 41 Geo. 3. (U. K.) c. 27; 42 Geo. 3. c. 6: c. 54: 43 Geo. 3. c. 91: 44 Geo. 3. c. 93: 45 Geo. 3. c. 74: 46 Geo. 3. c. 148: 47 Geo. 3. stat. 2. c. 9, and subsequent annual Acts.

A Ticket which was the last drawn of a Lottery, was considered as such, so as to entitle the holder to a prize, though there was a number which was never drawn, and of which no account could be given.

LOVE. Provoking unlawful Love, was one species of the crime of witchcraft, punishable by stat. 1 Jac. 1. c. 12. now repealed.

LOURCUDUS, A ram or bell-wether. Cowell.

LURGULARY, The casting any corrupt or poisonous thing in the water, was styled lurgulary, and felony. Stat. 3rd Startis London, Anno 1573.

LOWBELLERS, Such persons as go out in the night-time with a light and a bell, by the sight and noise whereof birds sitting upon the ground become stupefied, and so are covered and taken with a net; the word is derived from the Sax. low, which signified a flame of fire. Antiq. Warwick, p. 4.

LOWBOTE, A recompence for the death of a man killed in a tumult, or as we say, by the mob. Cowell.

LUDI DE REGÉ & REGINA, Playing at cards, so called, because there are Kings and Queens in the pack. Cowell.

LUMINARE, A lamp or candle, set burning on the altar of any church or chapel; for the maintenance whereof lands and rent-charges were frequently given to parish churches, &c. Kennet's Gloss.

LUNATICK. See this dictionary, title Idiots and Lunatics. See also the statute, 43 Geo. 3. c. 73, under which the estates of Lunatics (so found by Inquisition in England or Ireland) may be sold or mortgaged for payment of debts; and committees of Lunatics may be empowered to make leases of their estates, under orders of the Chancellors in England and Ireland respectively.
LUNDA, a weight or measure formerly used here.—*Lunda anguillarum constat de 10 Sticis.* *Fleta*, lib. 2 cap. 12.

LUNDRESS, a sterling silver penny, which has its name from being coined only at London, and not at the country mints. *Lownd’s Essay on Coin*, p. 17.

LUPANATRIX, A bawd or strumpet: and by the custom of London, a constable may enter a house, and arrest a common strumpet and carry her to prison. 3 *Inst.* 206, &c.: *Clusius 4 Ed.* 1. p. 1. m 16.

LUPINUM CAPUT GERERE, Signified to be outlawed, and have one’s head exposed like a wolf’s, with a reward to him that should bring it in. *Plac. Coron.* 4 *Johan Rot.* 2. See *Outlawry*.

LUPICETUM, Lat.] A hop-garden, or place where hops grow. 1 *Inst.* 4.

LUSHBURGHS or LUXENBURGHS, A base sort of foreign coin, made of the likeness of English money, and brought into England in the reign of King Edw. III. to deceive the King and his people: on account of which, it was made treason for any one unwittingly to bring any such money into the realm, knowing it to be false. *Stat.* 25 *Ed.* 3. st. 5. c. 2: 3 *Inst.* 1.

LUSTRINGS, A company was incorporated for making, dressing, and illustrating Alamodes and Lustrings in England, who were to have the sole benefit thereof confirmed by the following statute; by which no foreign silks known by the name of Lustrings or Alamodes are to be imported, but at the port of London, &c. *Stat.* 9 & 10 *W.* 3. c. 43. See titles *Silk; Navigation Acts*.

LUXURY, there were formerly various laws to restrain excess in apparel, all repealed by *stat.* 1 *Jac.* 1. c. 35. But as to excess in diet, there still remains one ancient statute unrepealed, *viz.* 10 *Ed.* 3. st. 3, which ordains, that no man shall be served at dinner, or supper, with more than two courses; except upon some great holidays there specified, in which he may be served with three. 4 *Comm.* 170, 1.

LYEF-YELD, (*i.e.* GELD;) LEF-SILVER, A small fine or pecuniary composition, paid by the customary tenant, to the lord for leave to plow or sow, &c. *Sonn.* of Gavel-kind.

LYING-IN-HOSPITALS; See *Hospitals*.

LYMPUTTA, a lime-fruit, *Cowell*.

LYNDEWOEDE, Was a doctor both of the civil and canon laws, and dean of the arches. He was ambassador for Henry V. into Portugal, anno 1422, as appeareth by the preface to his commentary upon the provincials. *Cowell*.

LYNN, An act for regulating worsted-weavers and their apprentices in the town of Lynn, &c. See *stat.* 14 & 15 *H.* 8. c. 3.